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Second Session—Twenty-sixth Parliament

1964

THE SENATE OF CANADA

PROCEEDINGS

OF THE

STANDING COMMITTEE ON

TRANSPORT AND COMMUNICATIONS

To whom was referred the

Bill C-2, An Act respecting the Trans-Canada Air Lines Act.

The Honourable HAROLD CONNOLLY, *Acting Chairman*

LIBRARY THURSDAY, MARCH 12, 1964

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UNIVERSITY OF TORONTO

WITNESS

Mr. Gordon R. McGregor, President, Trans-Canada Air Lines.

REPORT OF THE COMMITTEE

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1964

THE STANDING COMMITTEE
on
TRANSPORT AND COMMUNICATIONS

The Honourable
ADRIAN K. HUGESSEN,
Chairman

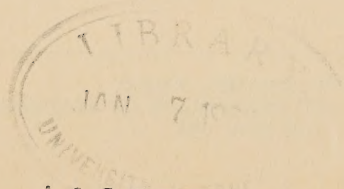
The Honourable Senators

Baird	Macdonald (<i>Brantford</i>)
Beaubien (<i>Provencher</i>)	McCutcheon
Bouffard	McGrand
Bradley	McKeen
Buchanan	McLean
Connolly (<i>Halifax North</i>)	Methot
Croll	Molson
Dessureault	Monette
Dupuis	Paterson
Farris	Pearson
Gelinas	Phillips
Fournier (<i>Madawaska-Restigouche</i>)	Power
Gershaw	Quart
Gouin	Reid
Haig	Robertson (<i>Shelburne</i>)
Hayden	Roebuck
Hollett	Smith (<i>Kamloops</i>)
Horner	Smith (<i>Queens-Shelburne</i>)
Hugessen	Stambaugh
Isnor	Taylor (<i>Westmorland</i>)
Jodoin	Thorvaldson
Kinley	Veniot
Lambert	Vien
Lang	Welch
Lefrançois	Woodrow—(50)

Ex officio members

Brooks
Connolly (*Ottawa West*)

(Quorum 9)



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ORDER OF REFERENCE

EXTRACT from the Minutes of the Proceedings of the Senate, Wednesday, March 11, 1964:

Pursuant to the Order of the Day, the Honourable Senator Hayden moved, seconded by the Honourable Senator Bouffard, that the Bill C-2, intituled: "An Act respecting Trans-Canada Air Lines Act", be read the second time.

In amendment, the Honourable Senator Phillips moved, seconded by the Honourable Senator Welch, that the motion for second reading of Bill C-2, intituled: "An Act respecting the Trans-Canada Air Lines Act", be amended by striking out the word "now" and by adding the words "this day six months", at the end of the question.

After debate,—

With leave of the Senate, the amendment was withdrawn.

The question being put on the original motion for the second reading of the Bill, it was—

Resolved in the affirmative.

The Bill was then read the second time.

The Honourable Senator Hayden moved, seconded by the Honourable Senator Bouffard, that the Bill be referred to the Standing Committee on Transport and Communications.

The question being put on the motion, it was—

Revolved in the affirmative.

JOHN F. MacNEILL,
Clerk of the Senate.

MINUTES OF PROCEEDINGS

THURSDAY, March 12, 1964.

Pursuant to adjournment and notice the Standing Committee on Transport and Communications met this day at 11.30 a.m.

Present: The Honourable Senators Beaubien (*Provencher*), Connolly (*Halifax North*), Connolly (*Ottawa West*), Fournier (*Madawaska-Restigouche*), Gouin, Hayden, Hollett, Isnor, Kinley, Lambert, Lang, Lefrançois, Power, Quart, Reid, Stambaugh, Taylor (*Westmorland*), Welch and Woodrow.—(19)

In attendance: Mr. E. Russell Hopkins, Law Clerk and Parliamentary Counsel.

In the absence of the Chairman and on Motion of the Honourable Senator Beaubien (*Provencher*), the Honourable Senator Connolly (*Halifax North*) was elected Acting Chairman.

Bill C-2, intituled: "An Act respecting the Trans-Canada Air Lines Act" was read and considered.

On Motion duly put it was RESOLVED to report recommending authority be granted for the printing of 800 copies in English and 200 copies in French of the Committee proceedings on the said Bill.

The following witness was heard: Mr. Gordon R. McGregor, President, Trans-Canada Air Lines.

On Motion of the Honourable Senator Hayden it was RESOLVED to report the Bill with the following amendments:

1. Strike out clause 2 and substitute therefor the following:

2. All property, rights, obligations and liabilities that existed, and anything done by or to Trans-Canada Air Lines before the coming into force of this Act shall be deemed to be property, rights, obligations and liabilities, and to have been done by or to or acquired or incurred by Air Canada.

2. Immediately after clause 2, insert the following as clause 3:

3. Paragraph (k) of subsection (1) of section 14 of the *Trans-Canada Air Lines Act* is repealed and the following substituted therefor:

(k) to use the words "Air Canada", "Trans-Canada Air Lines", "Lignes aériennes Trans-Canada", or any abbreviation thereof, as a trade name, mark or designation for any purpose connected with the business of the Corporation, and no other person shall hereafter use any such name, mark or designation for any purpose.

3. Renumber clause 3 as clause 4.

At 11.45 a.m. the Committee adjourned to the call of the Chairman.

Attest:

F. A. Jackson,
Clerk of the Committee.

REPORT OF THE COMMITTEE

THURSDAY, March 12, 1964.

The Standing Committee on Transport and Communications to whom was referred the Bill C-2, intituled: "An Act respecting the Trans-Canada Air Lines Act", have in obedience to the order of reference of March 11, 1964, examined the said Bill and now report the same with the following amendments:

1. Strike out clause 2 and substitute therefor the following:

2. All property, rights, obligations and liabilities that existed, and anything done by or to Trans-Canada Air Lines before the coming into force of this Act shall be deemed to be property, rights, obligations and liabilities, and to have been done by or to or acquired or incurred by Air Canada.

2. Immediately after clause 2, insert the following as clause 3:

3. Paragraph (k) of subsection (1) of section 14 of the *Trans-Canada Air Lines Act* is repealed and the following substituted therefor:

(k) to use the words "Air Canada", "Trans-Canada Air Lines", "Lignes aériennes Trans-Canada", or any abbreviation thereof, as a trade name, mark or designation for any purpose connected with the business of the Corporation, and no other person shall hereafter use any such name, mark or designation for any purpose.

3. Renumber clause 3 as clause 4.

All which is respectfully submitted.

HAROLD CONNOLLY,
Acting Chairman.

THE SENATE

THE STANDING COMMITTEE ON TRANSPORT AND COMMUNICATIONS EVIDENCE

OTTAWA, Thursday, March 12, 1964.

The Standing Committee on Transport and Communications to which was referred Bill C-2, an Act respecting the Trans-Canada Air Lines Act, met this day at 11.30 a.m.

The CLERK: Honourable senators, in the absence of the chairman, is it your pleasure to elect an acting chairman?

Senator BEAUBIEN (*Provencher*): I move that Senator Harold Connolly act as chairman.

Hon. SENATORS: Agreed.

Senator HAROLD CONNOLLY (*Acting Chairman*), in the Chair.

The committee agreed that a verbatim report be made of the committee's proceedings on the bill.

The committee agreed to report, recommending authority be granted for the printing of 800 copies in English and 200 copies in French of the committee's proceedings on the bill.

The ACTING CHAIRMAN: Honourable senators, as you know, the chairman of this committee for a long time past has been Senator Hugessen. He has been ill for some time. I think it would be appropriate if this committee were to express its regret at his illness, and to hope for a speedy convalescence.

Hon. SENATORS: Hear, hear.

Senator KINLEY: That is unanimous.

The ACTING CHAIRMAN: Now we have one bill before us this morning, Bill C-2, an act respecting the Trans-Canada Air Lines Act.

We have three gentlemen attending with us as witnesses: Mr. Gordon R. McGregor, President of T.C.A.; Mr. Jacques Fortier, counsel for the Department of Transport, and Mr. I. E. McPherson, general attorney of Trans-Canada Air Lines. Is it your pleasure that we hear these witnesses?

Some Hon. SENATORS: Agreed.

The ACTING CHAIRMAN: Mr. McGregor, would you care to address the committee, to start this session?

Mr. Gordon R. McGregor, President, Trans-Canada Air Lines: Thank you, Mr. Chairman.

I do not think there is a great deal I need say about the proposal. As you probably know, the name "Air Canada" was registered by T.C.A. some years ago as an alternate to the original name, the reason primarily being that the company's operations had changed materially over the years, and from a purely intra-Canada operation it had become strongly international. We thought the name "Trans-Canada," which implies an across Canada operation only, had ceased to apply satisfactorily when we were operating to many points in the Caribbean, to several states in the United States, and to several points in Europe and the United Kingdom.

Over the years we have progressively used the name "Air Canada" more predominantly in Europe than we have "Trans-Canada". At the same time there has been a duplication of the use of the name in Canada, and many of our offices are designated either "Air Canada" or "Trans-Canada Air Lines," or both. So there is nothing really new about T.C.A.'s association with the name "Air Canada".

There are other elements in the situation that are well known. The name "Trans-Canada Air Lines" is regarded as being not properly translatable into French. The name "Air Canada" is regarded as bilingual, in the fullest sense of the word. In short, I am inclined to think the pros in favour of the primary use of the name "Air Canada" outweigh the cons. Therefore, I hope that the basic principle embodied in Bill C-2 will be adopted.

However, there were several elements of the original drafting that bothered us. One was the fact that on proclamation—as it were, on that very day—we would have to be completely changed over to "Air Canada". If this is not physically impossible, it would be exceedingly expensive, even if the date of proclamation were some time distant.

The other thing we were exercised about was the fact that if Trans-Canada Air Lines ceased to be a name belonging to the corporation it could belong to anybody else. You may know there is already one quite large independent company which a year ago adopted the name "Transair". That was about as close as they could get to "Trans-Canada" without jumping on our name. If "Trans-Canada" became available as an air line name, I have no doubt that that company would adopt it. I suspect one other organization might also take steps in that direction. Anyway, the name has built up a good reputation over the years. It has a good reputation in the industry as a whole, and I think it would be quite unfair to Trans-Canada Air Lines and the company's owners, the people, if that name became available.

I understand the amendments that are under consideration protect the company against both those difficulties, and I therefore very much hope they will be adopted.

Senator REID: Did I hear you say that "Air Canada" had been proposed at one time previously?

Mr. McGREGOR: I did not say it, but it is a fact.

Senator HAYDEN: It is in the 1952-53 statutes. You were given the authority to use the name in your operations.

Mr. McGREGOR: That is right.

Senator HAYDEN: And you have adopted it more and more all the time?

Mr. McGREGOR: Yes.

Senator HOLLETT: Could you give us, Mr. McGregor, some idea of the approximate cost of the change-over involved?

Mr. McGREGOR: We believe it depends almost entirely on how quickly it has to be done. If we are given an opportunity to repaint aircraft when they come in for their normal overhaul and do not have to bring them off the line, it will be less expensive. If we are given the opportunity to run out of stocks of tickets, waybills and the great number of documents of that kind scattered all over the world, then I think the total cost would be in the order of \$250,000. If it is, what I might call, a crash program, it might be as high as three-quarters of a million.

Senator KINLEY: Do you not think it would represent a long-time saving?

Mr. McGREGOR: Yes.

Senator KINLEY: You know, the C.N.R. used to be called the Canadian National Railways. Somebody suggested they save some money and call it "Canadian National," which they did.

Mr. MCGREGOR: Yes.

Senator KINLEY: And now they have "C.N." and they save more money. This saves them an immense amount of money. I think "Air Canada" would save a lot of money in time.

Mr. MCGREGOR: I think there may be features of economy. It is certainly shorter, more staccato and precise.

Senator KINLEY: If you are going to have this new name registered and have it as a trade mark, can you retain the name "Trans-Canada Air Lines" if you do not use it?

Mr. MCGREGOR: I believe so.

Senator HAYDEN: If Parliament says so.

Senator KINLEY: That is the point, should they say so?

Senator ISNOR: Mr. McGregor, you state that \$250,000 is your estimate of the cost of the change-over. Apart from your stationery, what has been your average advertising bill during the past five years?

Mr. MCGREGOR: I would have to break that down, because we advertise separately in Europe, the United States and Canada. I would say our total advertising bill has been in the order of \$3½ million, on the average, over the last five years.

Senator WELCH: Would it be necessary to repaint these planes immediately? You are starting already with "Air Canada," and the tickets are marked "Air Canada" as well as "Trans-Canada". Why would it be necessary to incur the expense of \$250,000 to change the name? Would it not work out better to make the change gradually, when new equipment is brought in?

Mr. MCGREGOR: Gradual infiltration of the name "Air Canada" is what we have been about; and I take it the purpose of this bill is to provide some acceleration to that program, or some definite point of conclusion. We have been doing exactly that, but at some time in history we must change the designation of the aircraft because it can be very dangerous if there is any confusion over identity of aircraft taxiing on an airport. The tower must be able to look at it, read the name and call over the radio, "Air Canada, turn left at the next intersection," and that sort of thing. They cannot be worried about whether it is "Trans-Canada" or "Air Canada," because confusion around an airport is not to be desired.

Senator KINLEY: You will not use the name "Air Canada" until you get the name changed; and until then the tower will continue to use the words "Trans-Canada"?

Mr. MCGREGOR: As soon as this bill receives final approval, assuming it might, we would then start to change the names on each aircraft as they came into the hangar for general overhaul. In other words, painting will be going on at the same time as, say, an engine is being changed, so there would be no productive aircraft time wasted.

Senator KINLEY: There will be a little hiatus?

Mr. MCGREGOR: There will be a period of overlap too.

Senator KINLEY: Will not that cause confusion?

Mr. MCGREGOR: No. One aircraft can only have one name on it. If it is "T.C.A." the tower will read it; and if it is "Air Canada" the tower will read it.

Senator HOLLETT: Proclamation could be held up for a short time.

Mr. MCGREGOR: Yes, I suppose so.

Senator HOLLETT: That could be recommended by the committee?

Mr. MCGREGOR: You are getting into a realm in which I am not an expert.

Senator KINLEY: I am told that Trans-Canada made a profit this year.

Mr. MCGREGOR: That is correct, a small one. The report was tabled in the house.

Senator KINLEY: That is good news.

Senator LAMBERT: I would just like to suggest that the details of this proposal are not any part of the business of this committee. The business of this committee is to approve, in principle, this bill. The working out of the practical details of it would be left to the executive heads, like Mr. McGregor and the others, to implement them just as soon as they can. I would suggest the bill be passed.

Senator HAYDEN: Just a moment. Mr. Chairman, there are a couple of amendments to be proposed.

With regard to clause 2 of the bill, the proposal is to strike it out. You have a copy of the change. The object of the change is to strike out the word "the" where it appears in the fourth line in clause 2, where it says "the property. . ." Descriptively the word "the" should be deleted, so I would move that clause 2 be struck out and that there should be substituted therefor the language you have in the draft before you.

Senator WOODROW: I second that.

Senator REID: What is the change?

Senator HAYDEN: That the word "the" occurring in the fourth line of clause 2 be struck out.

Senator CONNOLLY (*Ottawa West*): It is purely a matter of drafting.

The ACTING CHAIRMAN: Does that amendment carry?

Hon. SENATORS: Agreed.

Senator KINLEY: Mr. Chairman, I am told "Canada" is an Indian word.

Mr. MCGREGOR: I believe that is right.

Senator KINLEY: I remember when we had the question come up in a Senate hearing one of our lawyers was trying to tell us that "dominion" did not mean "dominion," and it was said that "Canada" meant a collection of Indian huts, and he was a well-informed man.

Mr. MCGREGOR: There are many variations in the use of the word "Canada"—lakes, rivers, and so on—so I expect you are quite right.

Senator HAYDEN: I should have said also that the words appearing at the end of clause 2—that is, ". . . upon the coming into force of this Act."—are meaningless so the amendment strikes out the word "the" and also, ". . . upon the coming into force of this Act." That has been approved by the legal advisers of T.C.A.—I might say, not quite yet "Air Canada"—and our law clerk.

Senator HOLLETT: Could you tell us what effect the leaving out of the word "the" has on it?

Senator HAYDEN: The clause is speaking of "property, rights, obligations and liabilities," generally at the beginning. You are then saying, "the property, rights, obligations and liabilities, and to have been done by or to or acquired or incurred by Air Canada." It is purely drafting.

Hon. SENATORS: Agreed.

Senator HAYDEN: There is an addition proposed as a new clause 3 to the bill, and clause 3 will become clause 4. That is to preserve to Air Canada the

right to the name "Trans-Canada" and "Trans-Canada Air Lines" in English and in French, and also to retain the trade name. The wording of that would be as follows, and I move that:

"Paragraph (k) of subsection (1) of section 14 of the Trans-Canada Air Lines Act be repealed and the following substituted therefor:

'(k) to use the words "Air Canada", "Trans-Canada Air Lines", "Lignes aériennes Trans-Canada", or any abbreviation thereof, as a trade name, mark or designation for any purpose connected with the business of the Corporation, and no other person shall hereafter use any such name, mark or designation for any purpose.'"

I so move.

Senator WOODROW: Seconded.

The ACTING CHAIRMAN: Any comments? Is it agreed?

Hon. SENATORS: Agreed.

Senator HAYDEN: Then section 3 of the bill becomes section 4.

Hon. SENATORS: Agreed.

Senator CONNOLLY (*Ottawa West*): Mr. Chairman, before we adjourn I should like to thank Mr. McGregor very much for coming here this morning. I understand it was at considerable personal inconvenience because he spoke in the metropolitan area of Toronto last night, and T.C.A. got him in this morning.

Mr. MCGREGOR: Thank you, ladies and gentlemen.

The ACTING CHAIRMAN: I take it you are absolved, Mr. McGregor!

Senator HAYDEN: I move the bill be reported as amended.

The ACTING CHAIRMAN: Any dissent? Is it agreed?

Hon. SENATORS: Agreed.

Whereupon the committee adjourned.



Second Session—Twenty-sixth Parliament

1964

THE SENATE OF CANADA

PROCEEDINGS

OF THE

STANDING COMMITTEE ON

TRANSPORT AND COMMUNICATIONS

To whom was referred the

Bill S-4, An Act respecting the International Bridge over
the St. Clair River known as the Blue Water Bridge.

The Honourable A. K. HUGESSEN, *Chairman*.

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THURSDAY, MARCH 26, 1964.

WITNESSES:

Mr. J. G. Grandy, Assistant Secretary to the Cabinet; Mr. D. S. Thorson, Assistant Deputy Minister of Justice; Mr. G. Douglas McIntyre, Solicitor for Customs; Mr. W. F. Foy, M.P. for Lambton West; Mr. James Bullbrook, Solicitor for the Village of Point Edward.

REPORT OF THE COMMITTEE

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1964

THE STANDING COMMITTEE
on
TRANSPORT AND COMMUNICATIONS

The Honourable
ADRIAN K. HUGESSEN,
Chairman

The Honourable Senators

Baird,	Macdonald (<i>Brantford</i>),
Beaubien (<i>Provencher</i>),	McCutcheon,
Bouffard,	McGrand,
Bradley,	McKeen,
Buchanan,	McLean,
Connolly (<i>Halifax North</i>),	Methot,
Croll,	Molson,
Dessureault,	Monette,
Dupuis,	Paterson,
Farris,	Pearson,
Gélinas,	Phillips,
Fournier (<i>Madawaska-Restigouche</i>),	Power,
Gershaw,	Quart,
Gouin,	Reid,
Haig,	Robertson (<i>Shelburne</i>),
Hayden,	Roebuck,
Hollett,	Smith (<i>Kamloops</i>),
Horner,	Smith (<i>Queens-Shelburne</i>),
Hugessen,	Stambaugh,
Isnor,	Taylor (<i>Westmorland</i>),
Jodoin,	Thorvaldson,
Kinley,	Veniot,
Lambert,	Vien,
Lang,	Welch,
Lefrançois,	Woodrow—(50).

Ex officio members

Brooks,
Connolly (*Ottawa West*).

(Quorum 9)

ORDER OF REFERENCE

Extract from the Minutes of the Proceedings of the Senate, Tuesday, March 24th, 1964:

"Pursuant to the Order of the Day, the Honourable Senator Macdonald, P.C., moved, seconded by the Honourable Senator McLean, that the Bill S-4, intituled: "An Act respecting the International Bridge over the St. Clair River known as the Blue Water Bridge", be read the second time.

After debate, and—

The question being put on the motion, it was—

Resolved in the affirmative.

The Bill was then read the second time.

The Honourable Senator Macdonald, P.C., moved, seconded by the Honourable Senator McLean, that the Bill be referred to the Standing Committee on Transport and Communications.

The question being put on the motion, it was—

Resolved in the affirmative."

JOHN F. MacNEILL,
Clerk of the Senate.

MINUTES OF PROCEEDINGS

THURSDAY, March 26th, 1964.

Pursuant to adjournment and notice the Standing Committee on Transport and Communications met this day at 10.30 a.m.

Present: The Honourable Senators Hugessen (*Chairman*), Baird, Beaubien (*Provencher*), Buchanan, Connolly (*Ottawa West*), Croll, Dupuis, Gelinas, Fournier (*Madawaska-Restigouche*), Gouin, Haig, Hollett, Kinley, Lambert, Lang, Lefrancois, McCutcheon, Smith (*Kamloops*), Welch and Woodrow—20.

In attendance: Mr. E. Russell Hopkins, Law Clerk and Parliamentary Counsel.

Bill S-4, intituled: "An Act respecting the International Bridge over the St. Clair River known as the Blue Water Bridge" was read and considered clause by clause.

On Motion of the Honourable Senator Kinley, it was Resolved to Report recommending that authority be granted for the printing of 500 copies in English and 200 copies in French of the Committee's proceedings on the said Bill.

The following witnesses were heard:

Mr. J. G. Grandy, Assistant Secretary to the Cabinet.

Mr. D. S. Thorson, Assistant Deputy Minister of Justice.

Mr. G. Douglas McIntyre, Solicitor for Customs.

Mr. W. F. Foy, M.P. for Lambton West.

Mr. James Bullbrook, Solicitor for the village of Point Edward.

In attendance but not heard were:

Mr. Maurice Copithorne, Legal Division, Treaty Section of External Affairs.

Mr. S. G. Ogilvie, Chief of Accommodation for Customs and Excise.

On Motion of the Honourable Senator Haig, it was Resolved to Report the Bill with the following amendments:

1. *Page 9:* Immediately after clause 22 insert the following as new clause 23:

"23. The Bridge Authority shall provide and maintain at its expense such suitable office, warehouse and other accommodation, with adequate light and heat,

(a) as the Governor in Council or any Minister designated by the Governor in Council may from time to time require for Canadian customs and immigration purposes; and

(b) as the appropriate authority in the United States or any authority designated by the appropriate authority in the United States may from time to time require for United States customs and immigration purposes."

2. *Page 10:* Renumber clauses 23 and 24 as clauses 24 and 25.

3. *Page 10, line 13:* Strike out "23" and substitute therefor "24".

At 11.30 a.m. the Committee adjourned to the call of the Chairman.

Attest.

D. Jarvis,
Clerk of the Committee.

REPORT OF THE COMMITTEE

THURSDAY, March 26th, 1964.

The Standing Committee on Transport and Communications to whom was referred the Bill S-4, intituled: "An Act respecting the International Bridge over the St. Clair River known as the Blue Water Bridge", have in obedience to the order of reference of March 24th, 1964, examined the said Bill and now report the same with the following amendments:

1. *Page 9*: Immediately after clause 22 insert the following as new clause 23:

"23. The Bridge Authority shall provide and maintain at its expense such suitable office, warehouse and other accommodation, with adequate light and heat,

(a) as the Governor in Council or any Minister designated by the Governor in Council may from time to time require for Canadian customs and immigration purposes; and

(b) as the appropriate authority in the United States or any authority designated by the appropriate authority in the United States may from time to time require for United States customs and immigration purposes."

2. *Page 10*: Renumber clauses 23 and 24 as clauses 24 and 25.

3. *Page 10, line 13*: Strike out "23" and substitute therefor "24".

All which is respectfully submitted.

A. K. HUGESSEN,
Chairman.

THE SENATE

THE STANDING COMMITTEE ON TRANSPORT AND COMMUNICATIONS EVIDENCE

OTTAWA, Thursday, March 26, 1964.

The Standing Committee on Transport and Communications to which was referred Bill S-4, respecting the International Bridge over the St. Clair River known as the Blue Water Bridge, met this day at 10.30 a.m.

Senator A. K. HUGESSEN (*Chairman*), in the Chair.

The committee agreed that a verbatim report be made of the committee's proceedings on the bill.

The committee agreed to report, recommending that authority be granted for the printing of 500 copies in English and 200 copies in French of the committee's proceedings on the bill.

The CHAIRMAN: A number of witnesses are to appear before us in connection with this bill. As honourable senators will recall from the explanation given to it last Tuesday by Senator W. Ross Macdonald, this is in some respects an international bill, dealing as it does with the International Bridge between Canada and the United States at Sarnia; and a number of legal questions are involved as well. We have as witnesses, Mr. D. S. Thorson, Assistant Deputy Minister of Justice, and Mr. J. F. Grandy, Assistant Secretary to the Cabinet. We also have a representative from the legal division of the Treaty Section of the Department of External Affairs. One or more of the witnesses will give such evidence as the committee may require in connection with the bill.

I am advised that the Department of National Revenue wishes to have an amendment made to this bill, to insert a section requiring the Bridge Authority, which is to be set up under the bill, to provide accommodation on the Canadian side for Canadian customs immigration, and on the American side for American customs immigration, pursuant to such authority as the United States authorities may give in due course. When we come to that part of the bill, I will ask someone to move that amendment. For that purpose we have here Mr. G. Douglas McIntyre, Solicitor for Customs and Excise Division, Department of National Revenue, and Mr. S. G. Ogilvie, Chief of Accommodation, Customs and Excise Division, Department of National Revenue.

The Canadian end of this bridge is situated in the municipality of Point Edward, and I understand that the municipality of Point Edward has some interesting taxation in respect of the Canadian end. In any event, the solicitor for the village of Point Edward is Mr. James Bullbrook, and he is here and wishes to make some representations to the committee. He is accompanied by the member of Parliament for the district, Mr. Walter Foy.

I suppose we might proceed now with the evidence from the officials who are promulgating this bill, if that meets with the committee's approval.

I think honourable senators will recall that Senator White made a number of comments in his speech on the bill. Perhaps those officials have read Senator White's speech and will be able to give us advice in respect of the points he raised. Will Mr. Thorson or Mr. Grandy give evidence first? Which of the two would be more appropriate?

Mr. GRANDY: I can speak on the more general points, Mr. Chairman; and I think Mr. Thorson will be willing to proceed on the legal problems.

The CHAIRMAN: This is Mr. Grandy, Assistant Secretary to the Cabinet.

Mr. J. F. Grandy, Assistant Secretary to the Cabinet: I have had the opportunity of looking at the questions that were raised by Senator White, and I think perhaps it might be most useful if I were to speak on some of those points. Would that be appropriate, Mr. Chairman?

The CHAIRMAN: Yes, I think the committee would be interested in that. Senator White raised some points, which I think we should be satisfied on, with respect to various sections of the bill.

Mr. GRANDY: I think the first comment was that clause 6 provides there shall be no pay for members of the Bridge Authority. This is not an unusual practice in this kind of arrangement. It is a public benefit corporation, and the task of being a member of the Bridge Authority will be very much a part-time one. The Authority will, of course, have its permanent staff to manage the bridge who would, of course, be full-time paid employees. I think there is a precedent in the Peace Bridge Authority, where a similar arrangement was made, having members of the Bridge Authority serve without pay. That seems to have worked satisfactorily there.

Senator KINLEY: These men who would get no pay, have they a municipal connection? Are they interested in the town, or something?

Mr. GRANDY: These members would be appointed by the Governor in Council, and I would assume that they would be representative of a number of interests, including, of course, local interests.

Senator GOUIN: They would not be paid. This is one of the comments made by Senator White.

Mr. GRANDY: That is right, they would not be paid.

Senator KINLEY: Like a town council, they would not be paid. I thought perhaps they had a local service to perform in connection with the village, which is interested in this bridge.

Mr. GRANDY: I think that is the kind of person the Governor in Council would no doubt appoint, people who were interested in serving the community and the area.

I will not try to deal with the questions that were raised about title, and so forth, which I would rather have Mr. Thorson deal with. There was a comment made by Senator White, on page 226 of Senate *Hansard*:

Senator Macdonald indicated that the bridge had been paid for, but he did not state what assets are on hand, if any, as far as Canada is concerned, or what debts or claims or anything of that nature are outstanding. I believe honourable senators would like that and similar information in regard to what might be owing in respect of the portion located in the United States.

The CHAIRMAN: It does not refer to any particular section of the bill. He wanted information. Can you give us that information, please?

Mr. GRANDY: As far as assets are concerned, I do not think there are any assets, certainly on the Canadian side. There is no body, there is no entity to have any assets. On the question of debts or claims, or anything of that nature, I think the main thing we are aware of is the claim of the village of Point Edward in respect of the payment in lieu of taxes, on which no doubt the committee will be hearing later from Mr. Bullbrook. As for the other debts, again, there is no entity to owe any debts. Since the Michigan State Bridge

Commission no longer has any revenue and has used up its reserves, there has been a problem of maintenance of the bridge, particularly since last November, and this has been handled on a rather *ad hoc* basis, with the Department of Highways of Ontario continuing to plow the bridge and keep the road going, and with the federal Government on an *ad hoc* basis, I think, providing the cost of some of the utilities used by the Customs and Immigration offices and janitor services for those offices.

The CHAIRMAN: I think honourable senators will recall the situation as I understand it, that this bridge was built in the early thirties and was financed by a bond issue, the terms of the authorization being that when the bond issue was paid off, the bridge would revert, so far as Canada was concerned, to the dominion Government, and, so far as the United States end of it was concerned, to the Government of the United States or the State of Michigan. What happened was that the bridge went on collecting tolls until 1961, and those tolls were used, partly for maintenance and partly to pay off the bonds.

Since 1961 the bonds have been paid off, and no tolls, I am told, have been levied since 1961. In fact, there is no authority to do anything about the bridge. There is the obligation to turn over the Canadian end of it to the federal Government of Canada, and the Michigan end of it to the State of Michigan or the Government of the United States—one or the other. This is an attempt to bring the matter up to date and to create a joint Authority between the two countries, with the right to levy tolls, and so forth. That is the situation, is it not, Mr. Grandy?

MR. GRANDY: That is about it, sir, except that on the United States side there is the Michigan State Bridge Commission which is operating the bridge and has, up until now, operated both ends of the bridge. As long as it had tolls it could do this and finance the painting of the bridge right across, and all the rest of it. Even after 1961 it was able to carry out certain expenditures on the Canadian half of the bridge because it had set up a reserve fund through the years when tolls were collected, but that reserve fund was exhausted by 1st November last. Now the Michigan State Bridge Commission is simply not in a position to spend money out of Michigan public funds to maintain the Canadian end of this bridge, and I do not think it is in the Canadian interest they should be expected to.

Senator KINLEY: What is the purpose of the bill, to restore the tolls and obtain revenue?

The CHAIRMAN: It is to create a new international Authority, half Canadian and half American, to operate the bridge and, of course, perhaps to restore tolls too.

Senator KINLEY: If the tolls are not collected now, that is what the bill is intended to do, to restore the tolls, is it not?

MR. GRANDY: This is one purpose, I suppose. I think the preamble to the bill states, in the first paragraph, that:

Whereas it is deemed appropriate that an international bridge providing facilities for the carriage of highway traffic between Canada and the United States be operated on a joint international basis by a public authority having equal representation of members appointed from each of the two countries, and having power to levy tolls to meet the costs of operating and maintaining such a bridge;

And whereas there is at present no competent authority to levy tolls to defray the costs of operating and maintaining the Canadian portion of the international bridge . . .

Etcetera. So it is a part of the purpose. It is to have an Authority of an international character, with the necessary revenues, which presumably must come from tolls.

Senator FOURNIER (*Madawaska-Restigouche*): In other words, our end of the bridge is an "orphan"?

Mr. GRANDY: Yes.

Senator KINLEY: And the other end has no money.

Senator FOURNIER (*Madawaska-Restigouche*): How heavy is the traffic on that bridge?

Mr. GRANDY: I do not know that, sir.

Senator FOURNIER (*Madawaska-Restigouche*): Is it heavy or moderate?

Mr. GRANDY: I understand it has been fairly heavy, but I do not have any figures.

Senator FOURNIER (*Madawaska-Restigouche*): It is a two-lane highway, I suppose?

Mr. GRANDY: Yes.

The CHAIRMAN: You were going on with your remarks on Senator White's comments.

Mr. GRANDY: Yes, sir. On the United States side, I do not think we have any information about debts or claims. I am sorry, Mr. Chairman, on the previous question, I am informed that last year six million cars crossed the bridge. Senator White went on to talk about some of the provisions about the bond issues, and I would like to comment on this. The first point was about the rate of interest.

The CHAIRMAN: That is section 13?

Mr. GRANDY: Yes. Section 13(3) provides that the Bridge Authority can issue bonds which shall be sold at a price not less than a price at which the interest-yield basis will equal $6\frac{1}{2}$ per cent per annum, Senator White's comment was that this seems to be a high rate of interest. This, of course, is put in as a maximum, as a protection against an unduly high rate of interest. The provision is that the coupon rate cannot exceed 6 per cent, but the Authority would not be permitted to offer the bonds for sale at a price so far below the par value as to give a yield of higher than $6\frac{1}{2}$ per cent. It is more common in United States legislation than in Canadian legislation to put limiting provisions of this kind in about bond issues. I think in Canada the more usual tradition has been to provide that the terms of a bond issue would have to be approved by the Governor in Council, and to assume that that would be adequate protection.

However, we want this bill to be acceptable both to the United States and Canada. In other words, we wanted them to be able to pass enabling legislation on their side which would be in the same terms, and we knew from experience that the United States Congress would insist on having provisions of this kind as regards the rate of interest on the bond issue.

Then there was a related comment about the call provisions on the bonds. Again this is a provision that a bond issued by the Bridge Authority—"

Senator DUPUIS: What section is this?

The CHAIRMAN: Subsection 4 (a) on page 6.

Mr. GRANDY:—"may be issued with a call provision reserving to the Bridge Authority the right to redeem the bond before maturity at a price or prices not exceeding the sum of the accrued interest plus 150 per cent of the par value." Again this is meant to be a limiting provision. It is meant to be protection, to be a maximum on the premium.

Senator McCUTCHEON: It is a fantastic amount.

Senator HAIG: Let us buy some.

Mr. GRANDY: Again this is based on the fairly standard provision that the United States usually puts into its legislation. Here again I think we would probably not have put in a limiting provision of this kind.

Senator McCUTCHEON: I could understand a 10 per cent premium as an outside on a 6 per cent security, but even that is higher than the normal commercial rate. But 150 per cent I don't understand.

Mr. GRANDY: I suppose the idea behind it is that in a period of high interest rates a call provision would clearly be needed. Whether this premium is excessive, I don't know, because I don't know that much about the bond market. Again we based it on what has been a pretty standard provision in United States legislation.

Senator McCUTCHEON: Well, it is subject to approval of the Governor in Council.

Senator GOUIN: It is of course a very high premium.

Mr. GRANDY: The assumption is that the Bridge Authority would not try to put in a call provision that was greater than it would need from the point of view of proper financial management.

Senator CONNOLLY (*Ottawa West*): I take it what you are saying is that the trustee would not call for a redemption price at this level, and as Senator McCutcheon points out, the only safety valve there is, is the right of the Governor in Council to say it shall be at this level of 10 per cent. It still seems to me, talking as a private member of the Senate and not as a member of the Government, to be a very high ceiling. However, I suppose you have got to take into account the fact that legislation has to conform with what is possible in your arrangements with the Americans.

Mr. GRANDY: Of course in Canada we do have the extra protection of the requirement of approval by the Governor in Council.

Senator CONNOLLY (*Ottawa West*): That is the safety valve.

Mr. GRANDY: On the United States side they probably wouldn't have that extra protection.

The CHAIRMAN: Frankly, I don't pay much attention to these protecting powers for this reason, the bridge is already paid for and the only reason the Authority would need to raise funds would be if it wanted to widen approaches or something of that nature.

Senator KINLEY: It depends on the condition of the bridge. It might be in bad repair or it might require maintenance.

The CHAIRMAN: That could be recovered by the tolls.

Senator KINLEY: It might require new parts. It is 30 years old.

Mr. GRANDY: I think the assumption was that a bond issue would be very unlikely, and would not be needed unless there was a major structural repair or a complete rebuilding of the bridge.

Senator HAIG: On the question of tolls, are they going to be in perpetuity and how do you set the toll rate? How do you set the tolls?

Mr. GRANDY: First of all, the tolls are only to be what is necessary to provide current revenues as provided in clause 9—to provide current revenues to pay the reasonable current costs of the bridge, and to provide or replenish a sinking fund if there were a bond issue and to pay any other expenses the Bridge Authority may properly incur. The Authority will not have the right to charge tolls that would be excessive in relation to these actual requirements, and the tolls would be subject to review by the Board of Transport Commissioners.

Senator FOURNIER (*Madawaska-Restigouche*): In other words, they would be the ones to set the tolls.

Mr. GRANDY: I presume the Bridge Authority would set up a schedule and the transport commissioners would approve it.

Senator FOURNIER (*Madawaska-Restigouche*): Are there tolls today?

Mr. GRANDY: No. Since there is no bond issue now to pay back, I think we could assume the tolls would really be quite low.

The CHAIRMAN: That deals with Senator White's comments.

Mr. GRANDY: Other than the legal comments which Mr. Thorson might want to deal with, there is a question on the last column of page 228 of *Hansard*.

The CHAIRMAN: Any further questions of Mr. Grandy, then? If not, shall we call on Mr. Thorson?

Senator GOUIN: I suppose at the present time the bridge would be vested in the Crown. I find it strange that such a valuable piece of property has not been vested expressly in anybody, except that by the original act of 1928, or whatever year it was, it was vested in the Crown.

The CHAIRMAN: I think all that the original act did was to create an obligation to vest the property in the Crown when the bond issue was paid off.

Senator GOUIN: And that is where we stand now?

The CHAIRMAN: Yes.

Mr. GRANDY: Mr. Thorson might be able to comment on the question of ownership, and so forth.

The CHAIRMAN: Very well, shall we call on Mr. Thorson?

Hon. SENATORS: Yes.

The CHAIRMAN: Mr. Thorson is the assistant deputy minister of Justice. You might deal with the question of title, Mr. Thorson.

Mr. D. S. Thorson, Q.C., Assistant Deputy Minister, Department of Justice: Yes. This is a very involved situation but I will try to simplify it. At the present time the title to the structure itself is not in the Crown in right of Canada. When the bridge was financed originally in the United States in 1928, there was a corporation established by the Parliament of Canada to construct the Canadian portion of the bridge. When the construction was completed the Canadian corporation conveyed all its right, title and interest in the bridge to the Michigan body, and from that point the entire structure including the portion in the United States was operated by the Michigan State Bridge Commission.

There was a provision in the Canadian law that upon the retirement of the bonded indebtedness that had to be assumed in order to construct the bridge, the Canadian portion of the bridge would be conveyed either to the Crown in right of Canada or to such other authority as the Governor in Council might designate at that time. At the moment there has been no such designation. We are still awaiting a proper regime, and this bill is designed to establish such a regime before making the necessary conveyance.

So, the situation is that the title to the bridge will be conveyed as soon as this legislation is enacted by Parliament. When that happens title in the Canadian portion will be conveyed to the Crown in right of Canada which, in turn, will reconvey the title to the new Bridge Authority, so in effect we will have title for only a fleeting moment.

Senator BAIRD: In other words, the Michigan people will fall into line with this? They are agreeable?

Mr. THORSON: Yes. I think it is fair to say that they are quite anxious to make a conveyance of their interest in the Canadian portion of the bridge, because it will be appreciated that a structure of this kind is not really a valuable asset, except in so far as there is a right to levy tolls to cover the cost of maintaining and operating it.

There is a further complexity. When the span itself was constructed, the financing of the construction had been raised by the Michigan body. The bridge itself—

Senator CONNOLLY (*Ottawa West*): Mr. Thorson, may I interrupt to ask you one question?

Mr. THORSON: Yes.

Senator CONNOLLY (*Ottawa West*): The Canadian company which was incorporated by Act of Parliament was a private company, was it not?

Mr. THORSON: Yes, sir, it was.

Senator CONNOLLY (*Ottawa West*): And was the Michigan company a private company too?

Mr. THORSON: I do not think it was.

Senator CONNOLLY (*Ottawa West*): I know you said that the Michigan Bridge Authority operated the bridge. Now, I wonder whether they were the original owners.

Mr. THORSON: This is subject to correction. Mr. Copithorne might deal with this point, but I believe that a Michigan corporation was established for the purpose of constructing the bridge, and then when the bridge was completed the whole thing was turned over to the State Bridge Commission of Michigan. There is Congressional legislation in the United States establishing this body.

Does that deal with the present state of the title?

Hon. SENATORS: Yes.

Mr. THORSON: Dealing with a point raised by Senator White, at page 226 of Hansard of March 24, when he asked a question concerning subclause (4) of clause 7—

The CHAIRMAN: That is at the top of page 4 of the bill.

Mr. THORSON: He asked a question, based on an assumption that he made, which is as follows:

I presume that when the transfer is made—that is, by the two countries

—as far as Canada is concerned the entire title to the bridge, including the approaches and everything else, will be made, and that the same will apply to that part of the bridge in the United States.

Then he raised a question as to why subclause (4) of clause 7 was necessary.

At the moment, of course, there is no reciprocal legislation in the United States authorizing the United States to join with us to operate the bridge on a joint and international basis as Part I of this bill contemplates.

You will see by Part II that until there is such reciprocal legislation the Bridge Commission is to consist of not eight but four members—four Canadian members—and the jurisdiction of the Bridge Authority will extend only to the portion of the bridge physically in Canada.

Now then, Part I, and more particularly clause 7, contemplates the regime that will apply when the United States joins in with Canada in the joint operation of the bridge. Subclause (4) is necessary because it is appreciated that Michigan as the owner of the United States portion of the bridge may not want to convey title to its portion of the bridge to this proposed new Bridge Authority. Rather than convey title, they may prefer simply to entrust to the Bridge Authority full power to maintain and operate the bridge.

Subclause (4) is concerned with that situation, in the event that Michigan by a trust instrument of some kind confers a right to operate and maintain the bridge upon this Bridge Authority. That will then be sufficient "title" for the purposes of this Act, and the Bridge Authority can then go on to operate and maintain the bridge as though it had the full proprietary interest in the United States portion.

The CHAIRMAN: Are there any other questions of Mr. Thorson? If not, I think we should now proceed to consider the amendments that the Department of National Revenue wishes to introduce into the bill to provide for facilities for customs and immigration at the bridge.

Mr. G. Douglas McIntyre is present to discuss this matter. He is a solicitor for the Customs and Excise Division of the Department of National Revenue.

Will you tell us what amendments you want, and for what purpose, Mr. McIntyre? Perhaps you could give us the text of the suggested amendments?

Mr. G. Douglas McIntyre, Solicitor, Department of National Revenue: Yes. Well, the purpose, Mr. Chairman and senators, is to provide for facilities for customs and immigration at the Canadian end of the bridge, and also appropriate authority at the United States end when the legislation goes through.

Senator FOURNIER (*Madawaska-Restigouche*): May I ask whether there are facilities there at the moment?

Mr. MCINTYRE: There are facilities there now, senator, but they have been very badly neglected since the tolls were taken off. We have had trouble with the maintenance of our facilities. There has not been any char work done. We have had trouble with the removal of snow, and so on. It has not been very satisfactory.

The proposed amendment is:

1. That Bill S-4, an Act respecting the International Bridge over the St. Clair River known as the Blue Water Bridge, be amended

(a) by adding thereto immediately after clause 22 the following new clause:

"23. The Bridge Authority shall provide and maintain at its expense such suitable office, warehouse and other accommodation, with adequate light and heat,

(a) as the Governor in Council or any Minister designated by the Governor in Council may from time to time require for Canadian customs and immigration purposes; and

(b) as the appropriate authority in the United States or any authority designated by the appropriate authority in the United States may from time to time require for United States customs and immigration purposes.

(b) by renumbering clauses 23 to 24 as clauses 24 to 25 respectively;

(c) by striking out line 13 on page 10 of the renumbered clause 25 and by substituting therefor the following: "as a proclamation is issued under section 24"

That is the proposed amendment.

Senator BAIRD: Is that the customary thing to do, for the bridge authorities to pay for the customs?

Mr. MCINTYRE: Yes, the order in council has been in effect since 1936, whereby the Michigan State Authority agreed to provide those facilities for customs and immigration purposes. That has been the policy of our department since Confederation, senator. We do not pay for any facilities in the way of ferries, international tunnels or bridges.

Senator CONNOLLY (*Ottawa West*): Has this amendment been cleared with the people who have been dealing with the American authorities in respect of this legislation. Perhaps Mr. Thorson would know.

Mr. THORSON: No, it has not been formally referred to them, sir, but I should think it is obviously acceptable. The purpose is to state explicitly in the law the arrangement which has been in effect for many years. That might have been achieved in another manner without having provision in the legislation, but it was thought desirable to make the Bill explicit on this point and to have it in the law so as to put the matter beyond question.

The CHAIRMAN: Perhaps I might ask our Law Clerk, although he has had only a few seconds to look at this amendment, if it seems acceptable?

Mr. HOPKINS: Yes, I think it would be fine.

The CHAIRMAN: Honourable senators, shall I read the amendment?

Some Hon. SENATORS: No.

The CHAIRMAN: There are three parts in it. First, to add the new clause 23.

Some Hon. SENATORS: Agreed.

The CHAIRMAN: Then there is the portion to renumber clauses 23 and 24 as clauses 24 and 25 respectively.

Some Hon. SENATORS: Agreed.

The CHAIRMAN: Finally there is the reference to line 13 on page 10, clause 24, which is now renumbered clause 25.

Hon. SENATORS: Agreed.

The CHAIRMAN: We come now to the other parties who have representations to make to us. For the municipality of Point Edward we have Mr. James Bullbrook, who is solicitor for the Town of Point Edward. I think Mr. Walter Foy has had to go to a division.

Mr. BULLBROOK: No, Mr. Chairman; Mr. Foy is still with us.

The CHAIRMAN: Would you like to say anything, Mr. Foy?

Mr. FOY: Honourable senators, I have very little to say. There has been quite a lot of confusion for some time about this bill, as to how the ownership is going to be vested in the new Bridge Authority. This is the thing which has been confusing Point Edward from the taxation standpoint. Mr. Bullbrook will carry through on that. I am sure that if we had known in the past that the land was going to be conveyed to the Bridge Authority from the Crown, we could have terminated some of our discussions.

The CHAIRMAN: Thank you, Mr. Foy. Honourable senators, we now have Mr. Bullbrook, who is solicitor for the Village of Point Edward.

Mr. James Bullbrook, Solicitor for the Village of Point Edward: Mr. Chairman and honourable senators, in carrying on what Mr. Foy had to say, part of our problem was the fact that, although this proposed legislation said that the Bridge Authority may acquire such conveyances as are set out in the legislation we were not aware of the fact that they would, in point of fact, receive the conveyances. This caused us some concern.

The two basic problems which face the municipality which I represent today are these. First, there is the question of what might be called back taxes. Secondly, there is the question of future taxes or future payments in lieu of taxes.

The problem in connection with back taxes is that federal and provincial legislation which was originally enacted in connection with this bridge is somewhat at odds—I believe my friends will agree with this.

The provincial legislation was enacted in 1940 and provided for a payment to the municipality of \$5,000 per year in lieu of taxes, until the bonded indebtedness of the commission had been exhausted and that portion of the bridge situated within the Province of Ontario had been conveyed to the Province of Ontario.

As has actually been brought to your attention that the St. Clair Transit Company which originally chartered the company, and which was the common assignor of rights to the State Bridge Commission, envisaged, after the satisfaction of the bounded indebtedness, a transfer of structures and proprietary rights to whatever emanation the Governor in Council should designate.

Since June 1961, at which time the corporate indebtedness of the Bridge Commission was satisfied, the attorneys for the State Bridge Commission have been attempting to secure from either the federal or the provincial authorities an answer to the question as to the body to which this structure is to be conveyed. There has been a delay because of the legislation, but I do not think it has been an undue delay, as it is a complicated legal problem.

At the same time, the municipality has not received one cent in connection with their payment in lieu of taxes for the years 1961, 1962, 1963 and 1964. In connection with that matter, although we do not feel it is appropriate to this particular legislation, we do feel it is appropriate to the Bridge Authority itself, that it might well consider the question of these back taxes; and we bring this to your attention, honourable senators, because of this divergence in legislation.

As Mr. Thorson has brought to your attention, under the St. Clair Transit Company Act, it was intended that this bridge would go back to Her Majesty in right of the Dominion of Canada. Under the provincial legislation, it was obviously intended that it would be conveyed to Her Majesty in right of the province. As a result of this ensuing delay—

Senator CONNOLLY (*Ottawa West*): If one or the other of these took place, you would be entitled to \$5,000 a year and since then you have not received anything.

Mr. BULLBROOK: The Bridge Commission has said, in effect, "We cannot pay you until our corporate indebtedness has been satisfied." I have a file on this which has been going on for almost a year and a half. They say they have been trying to convey this bridge to someone so that they can set up the proper authority.

Therefore, I bring to your attention, and for the subsequent attention of the Authority itself, the question of equitable payment to the Village of Point Edward.

However, the more important consideration which I wish to bring to your attention today is the question of future payments. As I mentioned, honourable senators, in 1940 it was envisaged that \$5,000 per year to this municipality was adequate compensation to give for that portion of their lands which would be taken. This is a village of some 2,800 people and this is a tremendous expanse of land. It amounts to almost one eighth of the total area that has been taken. It is in a somewhat close commercial area. As a result, we feel at this time, sirs, that the 1940 legislation is really inadequate now in connection with the payment in lieu of taxes.

As a result of the provisions of the Assessment Act, each year the roll must be shown, and the assessment on the bridge structure and land last year was \$351,000. This had no assessment in connection with Mr. McIntyre's properties, the Customs and Excise offices and other building facilities there. At the present mill rate, that would have entitled the Village of Point Edward last year to a sum of \$14,980.

The problem which faces Mr. Thorson is the fact that the question of municipal taxation is a provincial one. I readily agree with this. I believe that the situation now is that under case law we would have the right to assess this Authority under the provisions of the provincial statute. I think Mr. Thorson is nodding agreement.

The only thing I suggest in connection with this is what has happened with respect to other legislation of this nature; for example, the City of Niagara Falls have provided a provincial bill which gives a payment of some \$12,000 a year to that city in connection with the International Bridge Authority there.

We are asking—and our representation to date is primarily for this—that some direct liaison should take place between the federal and provincial officials in connection with this whole matter. This is the way it is anticipated in this statute under section 21, which reads:

Nothing in this Act in any way affects any right, privilege, obligation or liability in respect of provincial or municipal assessment or taxation.

We have an existing provincial statute which renders an obligation to the State Bridge Commission of the State of Michigan to pay to this municipality \$5,000 a year. If that legislation remains as it is, there is some question of a conflict between the provisions of the Assessment Act and this provincial legislation. Therefore, we ask for some liaison with the provincial government to consider a private bill in connection with the establishment of a new payment by the new bridge authority; and we would like to have the opportunity, of course, at that time to put forward to those people the question of adequacy of the 1939 remuneration of \$5,000. We do not consider this adequate at this time. However, I do not think that is of much probative value to this committee at the present time.

The CHAIRMAN: You are not suggesting any amendment to the bill?

Mr. BULLBROOK: I am not, Mr. Chairman, but I am attempting to bring to the attention of this committee the quandary that the municipality faces and has faced.

Senator BAIRD: You want to register?

Mr. BULLBROOK: Yes.

Senator CONNOLLY (*Ottawa West*): Assuming the Ontario legislation to which you have referred has gotten out of the way this section 21, I take it you think that gives you freedom of action which you need to assess and collect taxes?

Mr. BULLBROOK: Yes, senator, I entirely agree. I would think for the purpose of this municipality it would be better to establish a new private provincial bill, calling for a specific payment in lieu of taxes, rather than enabling us to assess. This would obviate two things; first, that of the new Authority in wondering what their taxes are every year, because there would be a question of the assessment, plus the mill rate—and the mill rate of the municipality might go up and down—whereas if an established payment of \$15,000 a year were set, and their toll requirements assessed, they would know exactly what they were going to pay to this municipality.

Senator CONNOLLY (*Ottawa West*): Well, speaking off the cuff, they would not be in any different position from any other taxpayer?

Mr. BULLBROOK: That is correct, sir.

Senator CONNOLLY (*Ottawa West*): It might make it a good deal easier for them, as you suggest?

Mr. BULLBROOK: Yes.

The second thing that would be obviated is any possible confusion in the legislation. If the provincial legislation were repealed, then I think the provisions of the Ontario Assessment Act might apply. By the way, from a purely monetary point of view, when I speak of \$15,000 a year, I do not know, and I do not presume to know, what the total would be, but my information is that approximately 6 million vehicles went over that bridge last year, and at 10 cents each, that would have brought in a revenue of \$600,000 a year.

I would bring to your attention also that the new freeways in the State of Michigan are all, in effect, dumping into this area itself. We anticipate and hope for a great deal more traffic over the bridge itself.

The CHAIRMAN: In effect, anything you can get the legislature of Ontario to do for you in this matter is not affected by our section 21 of this bill.

Mr. BULLBROOK: That is correct. What I would really ask the Senate to assist me in, and I am sure I will get the assistance, is in having those administrative officials responsible for this bill take up some direct liaison with the provincial authorities. As a result of conversation I have had with the elected representative at Queens Park, I am led to believe that the provincial government will look with favour on the request.

The CHAIRMAN: Any questions?

Senator CONNOLLY (*Ottawa West*): May I suggest that we hear from the officials of the department to see if the assurance can be given?

The CHAIRMAN: Would that come from Mr. Thorson or from Mr. Grandy?

Mr. GRANDY: I do not think it matters, Mr. Chairman. I think this is an assurance that we would be willing to give, to agree to a suitable liaison, with the provincial authorities to try to get this matter settled.

The CHAIRMAN: I think it is only right and fair. After all, the municipality has been going without \$5,000 a year through no fault of its own.

Senator CONNOLLY (*Ottawa West*): Would you keep in mind also that it is a double-barrelled problem—not only taxes for the future, but also back taxes.

The CHAIRMAN: Yes, that is what I have said. The municipality is going without \$5,000 a year, which they have not been receiving for the past four years.

Mr. BULLBROOK: Thank you, Mr. Chairman and honourable senators.

The CHAIRMAN: Is the committee ready to consider the bill now? First of all, I did not ask the Law Clerk if he had a report on this bill.

Mr. HOPKINS: I have not had any report. We do not normally comment on public bills.

The CHAIRMAN: Well, as we proceed you may be asked questions.

Is the committee now ready to consider the bill clause by clause?

On the question being put by the Chairman on each section of the bill, sections 1 to 22 were duly carried.

The CHAIRMAN: Now, the new section 23, which was carried by the committee a few moments ago.

Hon. SENATORS: Carried.

The CHAIRMAN: And section 24, which is the old section 23.

Hon. SENATORS: Carried.

The CHAIRMAN: Section 25, which is the old section 24, will be amended in line 13.

Hon. SENATORS: Carried.

The CHAIRMAN: Shall the preamble carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Shall the title carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Shall we report the bill as amended? Bill reported as amended.

The committee adjourned.



Second Session—Twenty-sixth Parliament

1964

THE SENATE OF CANADA
PROCEEDINGS
OF THE
STANDING COMMITTEE ON
TRANSPORT AND COMMUNICATIONS

To whom was referred the
Bill S-10, Intituled: "An Act to provide for the
Establishment of Harbour Commissions".

The Honourable A. K. HUGESSEN, *Chairman*.

THURSDAY, APRIL 30, 1964



No. 1

WITNESSES:

The Honourable J. W. Pickersgill, Minister of Transport; Mr. G. W. Stead, Assistant Deputy Minister, Marine Services, Department of Transport; Mr. E. G. McNeely, City Solicitor, City of Oshawa; Mr. S. L. Chambers, Commissioner, North Fraser Harbour Commissioners and Mr. Ross Tolmie, Counsel, Council of Forest Industries of British Columbia.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1964

THE STANDING COMMITTEE
on
TRANSPORT AND COMMUNICATIONS

The Honourable
ADRIAN K. HUGESSEN,
Chairman

The Honourable Senators

Baird	Macdonald (<i>Brantford</i>)
Beaubien (<i>Provencher</i>)	McCutcheon
Bouffard	McGrand
Bradley	McKeen
Buchanan	McLean
Connolly (<i>Halifax North</i>)	Méthot
Croll	Molson
Dessureault	Monette
Dupuis	Paterson
Farris	Pearson
Gélinas	Phillips
Fournier (<i>Madawaska-Restigouche</i>)	Power
Gershaw	Quart
Gouin	Reid
Haig	Robertson (<i>Shelburne</i>)
Hayden	Roebuck
Hollett	Smith (<i>Kamloops</i>)
Horner	Smith (<i>Queens-Shelburne</i>)
Hugessen	Stambaugh
Isnor	Taylor (<i>Westmorland</i>)
Jodoin	Thorvaldson
Kinley	Veniot
Lambert	Vien
Lang	Welch
Lefrançois	Woodrow—(50)

Ex officio members

Brooks
Connolly (*Ottawa West*)

(Quorum 9)

ORDER OF REFERENCE

Extract from the Minutes and Proceedings of the Senate, Wednesday, March 18th, 1964.

"Pursuant to the Order of the Day, the Honourable Senator Leonard moved, seconded by the Honourable Senator Inman, that the Bill S-10, intituled: "An Act to provide for the Establishment of Harbour Commissions", be read the second time.

After debate, and—

The question being put on the motion, it was—

Resolved in the affirmative.

The Bill was then read the second time.

The Honourable Senator Leonard moved, seconded by the Honourable Senator Farris, that the Bill be referred to the Standing Committee on Transport and Communications.

The question being put on the motion, it was—

Resolved in the affirmative."

J. F. MacNEILL,
Clerk of the Senate.

MINUTES OF PROCEEDINGS

THURSDAY, April 30th, 1964.

Pursuant to adjournment and notice the Standing Committee on Transport and Communications met this day at 10.00 a.m.

Present: The Honourable Senators Hugessen (*Chairman*), Baird, Bouffard, Connolly (*Ottawa West*), Fournier (*Madawaska-Restigouche*), Hollett, Horner, Isnor, Kinley, Lambert, Lang, McCutcheon, McLean, Molson, Phillips, Power, Reid, Smith (*Kamloops*), Smith (*Queens-Shelburne*), Stambaugh, Veniot and Welch. (22)

In attendance: Mr. E. Russell Hopkins, Law Clerk and Parliamentary Counsel.

On Motion of the Honourable Senator Reid it was RESOLVED to report recommending that authority be granted for the printing of 800 copies in English and 300 copies in French of the proceedings of the Committee on Bill S-10.

Bill S-10, intituled: "An Act to provide for the Establishment of Harbour Commissions" was read and considered.

The following witnesses were heard:

Mr. E. G. McNeely, City Solicitor, City of Oshawa.

Mr. S. L. Chambers, Commissioner, North Fraser Harbour Commissioners.

The Honourable J. W. Pickersgill, Minister of Transport.

Mr. Ross Tolmie, Counsel, Council of Forest Industries of British Columbia.

Mr. G. W. Stead, Assistant Deputy Minister, Marine Services, Department of Transport.

At 11.20 a.m. the Committee adjourned.

At 2.15 the Committee resumed.

On Motion of the Honourable Senator Lambert it was RESOLVED to report the Bill with the following amendments:

1. *Page 7, line 17:* After "purpose" delete the period and add ", or in the case of a municipality having a substantial interest in the harbour, as determined by the Minister, by the auditors of such municipality."

2. *Page 9, line 4:* After "made" delete the period and substitute ":Provided that such order or proclamation shall become effective only upon the expiration of ninety days from the date of the publication thereof in the Canada Gazette."

3. *Page 9:* Strike out subclause (2) of clause 30 and substitute therefor the following:

"(2) No proclamation shall be issued pursuant to subsection (1) unless the Governor in Council has received

(a) a by-law passed by the Commission requesting the Governor in Council to declare the Commission to be established pursuant to this Act; and

- (b) a resolution or resolutions approving such by-law passed by the councils of all municipalities having power to appoint or to participate in the appointment of a member of any harbour Commission listed in the Schedule to this Act, or, where the number of such municipalities is more than two, by the councils of the majority of such municipalities."

At 2.45 p.m. the Committee adjourned to the call of the Chairman.

Attest:

F. A. Jackson,
Clerk of Committee.

THE SENATE

THE STANDING COMMITTEE ON TRANSPORT AND COMMUNICATIONS

EVIDENCE

OTTAWA, Thursday, April 30, 1964.

The Standing Committee on Transport and Communications to which was referred Bill S-10, an Act to provide for the Establishment of Harbour Commissions, met this day at 10 a.m.

Senator A. K. Hugessen (*Chairman*), in the Chair.

The CHAIRMAN: Honourable senators, we have a quorum, and I ask the committee to be good enough to come to order. We have before us for consideration Bill S-10, an Act to provide for the Establishment of Harbour Commissions.

The committee agreed that a verbatim report be made of the committee's proceedings on the bill.

The committee agreed to report recommending authority be granted for the printing of 800 copies in English and 300 copies in French of the committee's proceedings on the bill.

The CHAIRMAN: This bill originates, honourable senators, with the Department of Transport, and I understand that the Minister of Transport intends to be here. In the meantime we have from the department Mr. G. W. Stead, Assistant Deputy Minister, Marine Services, and Mr. Jacques Fortier, Counsel for the Department of Transport.

The Minister of Transport, the Hon. J. W. Pickersgill, is here now. I was just about to introduce him in his absence. Also in attendance are Mr. W. J. Manning, Director, Marine Works Branch, and Mr. J. H. W. Cavey, Chief, Harbours and Property Division.

Honourable senators will remember that during the debate on second reading of this bill about five weeks ago I undertook to see that everybody who might be interested in the bill—the various municipalities surrounding the harbours which are mentioned in the bill and the harbour commissions themselves—should be notified of this hearing so that they could make any representations they saw fit. That has been done. On April 1 a letter was sent by the Acting Chief Clerk of Committees to about 30 organizations, municipalities, harbour commissions and others who had expressed interest in the bill, enclosing a copy of the bill and advising them that this committee would consider the bill on April 23. When the date of this hearing was changed to April 30 they received a second communication, dated April 7. So I think the committee can rest assured that everybody who is interested in this bill has received a notification of this hearing.

We didn't get very many replies to this notification. Perhaps I should advise the committee of replies we have received. The Board of Trade of Metropolitan Toronto informed us that since Toronto had been removed from the bill—you will remember it was included in the bill last year and dropped this year—the Board of Trade of Toronto is not interested any longer. The Mayor of Nanaimo wrote in reply to say that his city has no representations to make in respect to the bill. The Corporation of the City of New Westminster advised us

that the matter had been brought to the attention of the council and that the letter had been filed for the information of council.

There was a letter from the former mayor of Belleville in which he makes one suggestion with regard to section 13 of the bill which perhaps we might deal with when we come to that section.

The Harbour Commissioners of Oshawa have advised that in view of the changes made this year from last year's bill they now have no further comments or suggestions to make and they will not be appearing at the hearing. The Corporation of the City of Oshawa also wrote a letter to me signed by the city's solicitor saying that they have certain representations they wish to make. The solicitor is Mr. E. G. McNeely and he is here.

The North Fraser Harbour Commissioners wrote, and it is dated April 24:

"Further to your letter of April 7, 1964, regarding Bill S-10, this is to advise that a delegation comprising Commissioner and Chairman J. S. Alsbury, Commissioner S. L. Chambers and Secretary-Manager N. D. Eastman, will be attending the meeting of the Standing Committee on Transport and Communications on Thursday, April 20, at 10:00 A.M. in Senate Committee Room No. 256-S, at which time it is proposed to present the views of The North Fraser Harbour Commissioners respecting Bill S-10."

These gentlemen are here this morning and we shall hear from them in due course. I should also inform the committee that I received two telegrams yesterday, apparently from the heads of industries in the North Fraser area, which I shall read to the committee:

"Canadian Forest Products strongly advocates that the North Fraser Harbour Commissioners be excluded from the provisions of Bill S 10 now under consideration STOP We cannot see how the present excellent administration of NFHC will be improved upon by this bill

L. L. G. Bentley, Senior Vice President"

The other is in substantially similar terms and reads as follows:

"Copy to the Hon. Arthur Laing. The Council of the Forest Industries of British Columbia on behalf of the sawmills plywood plants and shingle mills in the North Fraser Harbour area strongly recommends that the North Fraser Harbour Commission be excluded from the provisions of Bill 10 in view of the excellent administration of this area by the commission in the past

B. M. Hoffmeister President"

Those are all the communications we have received. I don't know if there is anybody else here this morning representing any organization or municipality other than those I have mentioned. There is one further person present, Mr. Ross Tolmie of Ottawa, representing the Council of Forest Industries of British Columbia, whose telegram I have just read.

I would suggest, honourable senators, that perhaps the best way we could proceed would be to hear representations from these various interests now. Last year we heard the explanation of the bill which departmental officials gave us, and we had an extended debate on second reading this year. Normally we proceed by asking the officials of the department to start off by explaining the bill. I wonder if that is necessary or if perhaps it would be a better plan to hear these representations and then let the minister and the officials comment on them.

Senator ISNOR: Mr. Chairman, the Minister of Transport is here now.

The CHAIRMAN: Yes, I have said that.

Senator LEONARD: As sponsor of the bill I wonder if we should ask the minister how long his time permits him to be with us, and if his time is short we could hear him now to be sure of hearing him before he has to leave.

The CHAIRMAN: I wonder if the committee wants to hear the minister at this stage. I do not know if we need an explanation or if the minister wishes to say something.

Hon. J. W. Pickersgill, Minister of Transport: I have no desire to say anything, but in respect of Senator Leonard's question I would say that it would be inconvenient for me to remain beyond 11 o'clock. I am, of course, at the disposition of the committee if there is any need for my being here.

The CHAIRMAN: That is why we should hear the representations and allow the minister to comment on them before he goes. Does that meet with the committee's approval?

Some Hon. SENATORS: Agreed.

The CHAIRMAN: Suppose we start with the City of Oshawa. I don't think they have too many suggestions to make. We have heard them before and I think we can deal with them promptly. You will remember Mr. McNeely. He was here last November in connection with last year's bill.

Mr. E. G. McNeely, City Solicitor for the City of Oshawa: Mr. Chairman, Mr. Minister, honourable senators, I am here this morning, of course, at the request of the city council of our municipality which authorized Mayor Gifford and myself to appear and to renew again the representations which we made to this committee with respect to Bill S-38, which I think as far as Oshawa is concerned is in all respects the same as S-10 now before the committee.

The committee will recall that when this bill was first introduced and considered by the committee, objection was taken by Hamilton, Toronto and Oshawa to the provisions in the bill which permitted the majority of the harbour commissioners in those cities to place themselves under this new act, and in so doing to repeal the private acts under which those harbour commissions had existed, in some cases for many years, and in our case for a number of years.

Since those representations were made two of the three parties who were here and made substantially the same representations, so far as that point is concerned, have of course had their objections met. Toronto was first removed from the bill and then, just before this new bill was introduced, Hamilton was also removed. Therefore, of the three original objectors we are left here by ourselves. That is not because they have abandoned the principle for which we were all striving at that time, but because they are satisfied by being deleted from the bill. As far as this present bill is concerned, we initially took the position—and I think honourable senators will recall it was a position that a number of the members of this committee themselves understood and first advanced—that in view of the fact these harbour commissioners listed in the schedule were now enjoying rights granted by Parliament by private legislation, or by public legislation specifically directed to them, the suggestion was made that it would be reasonable to provide that if that legislation was to be repealed, or if machinery for its repeal was to be incorporated into this new act, it was not unreasonable to require that the consent of the municipal councils of those particular municipalities be first obtained.

We took that position initially. It was a position which I say at that time seemed to commend itself to a number of the members of this committee. It was a position which Toronto and Hamilton felt didn't go quite far enough. We have maintained that position, and, as I say, Toronto and Hamilton have now been completely excluded, and we are still where we were. This bill is

going to affect Oshawa in this way. When the Oshawa Harbour Commission was established under its present act the municipality, in order to get this local commission established, entered into arrangements with the department whereby it turned over to the administration of the Harbour Commission—

Senator ISNOR: In what year was that?

Mr. McNEELY: 1960, sir—approximately 50 acres of land having a value of roughly a quarter of a million dollars. We did that on the strength of this act.

Under our present act we have the right, of course, to appoint a member. Under our present act we have the right of inspection of the commission's books. Of course, the commission is handling the money that is derived from our property.

Under this new act our commission can be placed under it and our old act can be repealed by a majority vote of the commissioners, and the majority of the commissioners, of course, are federally appointed. The new act does not contain a provision for the inspection of books which is in our present act. I may say that this is a provision which the department thought reasonable to include in virtually all of these harbour commission acts going back 50 years. It is not in the new act. That is one provision that is taken away.

Another thing is that under the new act once a majority vote of the commissioners puts us under the new act then, of course, the new act contains a provision whereby the Governor in Council by proclamation can dissolve any harbour commission completely. There is no requirement that any notice whatever be given with respect to the exercise of that power. The section simply provides that by proclamation the commission could be completely abolished.

The council of Oshawa feels that having regard to the fact this was an act set up by the arrangements I have mentioned, that it was an Act of Parliament which conferred certain rights on the municipality—certain rights which we feel are of value—the council feels, in view of these facts, that it is not unreasonable in taking objection to a bill which could result in the complete abolition of the harbour commission without reference to it, of course, without any reference to Parliament.

Any act, of course, can be amended or repealed, but this contains a provision whereby whatever rights we now have and which we value can be taken away by the executive without notice to us, and without further recourse to Parliament.

We appreciate, Mr. Chairman, the great pains that this committee and the Senate have gone to make sure that not only Oshawa but anyone who has anything to say with respect to this bill has the fullest opportunity to be heard. We appreciate that and I trust that the fact we have taken advantage of this to the full, will be understood as a reflection of the interest which we have in this matter. We have tried throughout in relation to this bill to take what we thought was a reasonable position. We did not ask to be completely excluded, as did other municipalities, but if it appears that in making what we consider these reasonable amendments with respect to harbour commissions which now enjoy a special status under special acts; if granting what we are asking in relation to all of them would pose a problem, then I think it is almost suggested that we should have taken the position which Hamilton and Toronto took initially, and in which they were successful.

The CHAIRMAN: I gather, Mr. McNeely, that you really have two points with respect to which you would like this bill changed. The first is that you think the consent of the municipality should be obtained before the present act is merged into the new act?

Mr. McNEELY: Yes, sir.

The CHAIRMAN: Secondly you want to retain the right of inspection of books and records so far as the local harbour is concerned?

Mr. McNEELY: That is correct, sir.

The CHAIRMAN: For the information of honourable senators perhaps I should read the provision in the present Oshawa Harbour Commissioners Act with respect to the inspection of books.

It is as follows:

All books, accounts, records and documents of the Corporation shall be at all times open for inspection by the Minister or the Council of the City of Oshawa or by a person authorized by the Minister or the Council for such purpose.

Now, there is in the new bill a substantially similar provision with regard to the minister but not with regard to the municipalities. Section 17 on page 7 requires the commission to keep accounts of all moneys borrowed, received and expended, and so forth, and then subsection (2) of section 17 reads:

All books, accounts, records and documents of the Commission shall be at all reasonable times open for inspection by the Minister or by a person authorized by the Minister for such purpose.

I suppose we could amend that section to provide that any local municipality in which a harbour is located would also have a right of inspection. That would cover your point, would it not?

Mr. McNEELY: Yes, sir.

The CHAIRMAN: What do you feel about that, Mr. Minister?

Hon. Mr. PICKERSGILL: I think I would like to hear all the representations and deal with them at the one time. I have a view on it.

The CHAIRMAN: Yes. Your other point was the consent which you suggest should be obtained from the municipality of Oshawa, in your case, before the present act is superseded by the new general act. I suppose that could be covered by amending section 30 of the bill. As honourable senators will see under subsection (2) of section 30, no proclamation shall be issued of this nature unless the Governor in Council has received a by-law passed by the commission—that is, the Harbour Commission—requesting the Governor in Council to declare the commission to be established pursuant to this act. You want to add to that, “the consent of the municipality”?

Mr. McNEELY: Yes, sir.

Senator LAMBERT: May I ask Mr. McNeely a question? He implied that because the local commission was composed of two federally appointed members and one local member that there might be a potential difference of opinion. Has he any ground for developing that idea now?

Mr. McNEELY: No, sir. I do not think our position was premised on the thought that there might be differences of opinion. That can, of course, always happen. I think basically our position was that we now enjoy certain rights under the present act, and that this new act provides a method whereby those rights or some of them could be taken away without recourse to us.

Senator LAMBERT: In other words, potentially there is a unanimous point of view on the part of the harbour commission?

Mr. McNEELY: Yes. I do not think that we are basing our position on the premise that there is likely to be disagreement, because obviously it is likely. That is not the foundation on which we are basing our case.

Senator LEONARD: Mr. McNeely, the City of Oshawa still has title to the 50 acres, has it not?

Mr. McNEELY: Yes, sir. What we did was to place it under the administration of the harbour commission, and this is something that municipalities sometimes do. For instance, with respect to the Parks Board the municipality retains title but the Parks Board administers, and it has the power to lease, and so on. It enjoys the incidence of ownership while the legal title remains in the municipality.

Senator LEONARD: Through a lease?

Mr. McNEELY: No, what we did, sir, was to pass a by-law placing this land under the administration of the Oshawa Harbour Commission, and providing that the revenues deriving from that land should be used by the harbour commission for the purpose of harbour development. So, while we retained title they leased the land and they obtained the revenue and applied that revenue for harbour purposes.

Senator LEONARD: Are you not in a position where you can change the terms of your arrangement with the harbour commission with respect to the use of that land?

Mr. McNEELY: I think we can.

Senator LEONARD: And you could probably make arrangements for the inspection of the accounts by agreement by reason of the use of that land?

Mr. McNEELY: I think it would probably be possible to do that, yes.

Senator LEONARD: Possibly also no action will be taken without your consent, even with respect to coming under this act?

Mr. McNEELY: Well, with respect, I think we would have to take the view that there is certainly a very real possibility we could be placed under this act without our consent. I think it is certainly a real possibility because, after all, presumably if the proposal to come under the new act were advanced it would be advanced because the department thought it was a desirable thing to do; and since they appoint a majority of the commissioners it is reasonable to suppose that once they reached a firm decision that was the right thing to do it would certainly in time be done.

The CHAIRMAN: Are there any further questions of Mr. McNeely?

Senator GROSART: Mr. McNeely, if an impasse arose between the attitude of the harbour commission wishing to come under this act and the city council desirous of not having the harbour commission come under this act, is there a possibility that Oshawa might withdraw its 50 acres of land from the jurisdiction of the harbour commission? And, if so, would this impair the effectiveness of the harbour commission?

Mr. McNEELY: Of course, all these things are possibilities. I do not think we would wish to hold that out as a consideration, for the reason that we place this land under their administration because we feel it is to the mutual advantage of the city and the harbour commission, and we would hope that it would continue to be so. I think the fact we did this, however, at the time we were getting this legislation which conferred on us our existing rights, is a proper consideration when a question has come up as to whether machinery should be provided for taking those rights away without recourse to us. But I do not wish to hold it out as a sort of threat.

Senator GROSART: Senator Leonard has suggested this bargaining power you have in respect of this land might offer a means by which you could protect the rights you have under the present act. Do you regard that as a realistic protection?

Mr. McNEELY: As I say, we do not regard it as being as good as having the right to inspection right in the act. We are quite satisfied with the rights we have and, of course, it is no protection at all for the one real possibility

I mentioned, that the harbour commission itself could be dissolved without any reference to us.

Senator LAMBERT: Is there in contemplation the development of this 50 acres in connection with harbour facilities, and, if so, how would it be financed?

Mr. McNEELY: The harbour commission, of course, is leasing part of this land now, and no doubt they have plans for the development of some of the land. At the present time I do not think the revenue would be very large because the land is largely vacant, but in time, of course, it will be quite valuable. As far as the financing of the expensive improvements at the harbour are concerned, I think the harbour commission's revenues—and this is something, perhaps, the department is better able to speak on than I—will provide for some substantial improvements. However, major expenses such as building docks, dredging and that sort of thing, in the case of Oshawa, as in the case of practically every harbour, are borne and have been borne by the Department of Transport at very considerable expense to them.

Senator CRERAR: What was the revenue last year?

Mr. McNEELY: My recollection is that the revenue they showed last year was somewhere around \$60,000. Perhaps Mr. Stead or Mr. Cavey could give an accurate figure.

Senator CRERAR: Did you operate successfully?

Mr. McNEELY: Yes, it was a successful operation.

Senator CRERAR: With a margin of profit?

Mr. McNEELY: Yes, they definitely made a profit. I think the figures were given by the chairman at the last meeting. I may say that within the next couple of days General Motors Corporation will start to ship cars out through our harbour, which will be the first time this has been done.

Senator CRERAR: Do you place any of the revenues you have into reserve?

Mr. McNEELY: I believe the harbour commission has a reserve in Oshawa. I represent the municipality of Oshawa, and I am not perhaps as familiar with the harbour commission's own affairs, if I may put it that way, as they would be; but I understand they do have a reserve.

The CHAIRMAN: Honourable senators, I do not wish to interrupt the proceedings, but we have the City of Oshawa's general views now, and I think it is important for the North Fraser Harbour Commissioners to express their views before the minister has to leave. Perhaps we could defer any further questions any honourable senators have for Mr. McNeely until later, and go on with the North Fraser. Does that meet with the committee's approval?

Hon. SENATORS: Agreed.

The CHAIRMAN: The three representatives of the North Fraser Harbour Commissioners are: Mr. J. S. Alsbury, Commissioner and Chairman; Mr. S. L. Chambers, Commissioner; and Mr. N. D. Eastman, Secretary-Manager.

May I say, we are grateful to you gentlemen for having taken the trouble to come all this way from the Pacific Coast to present your views to the committee. I understand Mr. Chambers is going to make the presentation, is that so?

Mr. CHAMBERS: That is correct.

The CHAIRMAN: This is Mr. S. L. Chambers, Commissioner of the North Fraser Harbour Commission.

Mr. S. L. Chambers, Commissioner, North Fraser Harbour Commission: Mr. Chairman, honourable minister, and honourable members of the Senate, to be as brief as possible, considering this heavy agenda you have here, last year when

this same act, or the initial act under the title of Bill S-38 came forward, we were of the opinion this was an attempt to create in one bill a harness that would fit an elephant and a horse as well. You have taken the two elephants, Toronto and Hamilton, out of this; and this particular horse likes the harness it has better than the one set out in this bill.

We are very grateful to you in that in your amendments to section 30 you have made it a little more difficult for us to be brought under this bill than it was in its first state because if we were to pass a by-law, as you now require, by-laws would have to go to the municipality concerned which would then give them an opportunity, if they wished, to state any objections. We think this a much preferable situation to simply requiring the majority of the commission to bring them under the act.

However, at this point our satisfaction stopped, because on reading the material that was before you the last time, apparently it is intended there will be other commissions created, and what you are setting out here is a standard act to cover harbour commissions. We are afraid that despite the option we have to stay out under section 30, sooner or later there will be further legislation to bring us in. Therefore, we felt we should state our objections now rather than at that particular time. We have prepared, and I believe we have filed with you a comparison, section by section, of our existing act with the bill which is before you—the appropriate sections—which makes it easier reading. I think Mr. Eastman has some more copies here.

The CHAIRMAN: I think that is the first time I have heard of that.

Mr. CHAMBERS: I believe one was sent down, but I am not sure.

The CHAIRMAN: Yes, it is at the bottom of this file.

Mr. CHAMBERS: We have some extra copies, if any of the senators would like them for comparison purposes, section by section.

The CHAIRMAN: I am sorry. We did receive a copy. It was at the bottom of the file.

Mr. CHAMBERS: I am relieved. I hoped we had not forgotten you. Now, section 4 of Bill S-10 contemplates a power by proclamation to define and to alter from time to time the boundaries of a commission harbour. Our present act sets out our boundaries by statute. Our view is that the effect of a change of the boundaries on the municipal authorities and on the industries located in the district would be such that it would be better to have them set out by statute where, if they were going to be amended, they would be amended by statute. Thus, affected parties could come before you and state objections to an amendment rather than be confronted by one by proclamation. This is one of our strong objections.

The next section I also wish to object to—

The CHAIRMAN: That also appears in section 30, subsection 1:

“...the Governor in Council may by proclamation declare a Commission set out in the Schedule hereto to be established pursuant to this Act—”

And it can also define the limitations of the harbour.

Mr. CHAMBERS: Yes, sir, that is the case. I cannot imagine why anybody would want to do it, but nevertheless the power is there.

The next section we are concerned with is section 8, subsection 2, which would provide that the chief executive officer shall be paid out of revenues of the commission such salary as may be fixed by the commission with the approval of the minister. This puzzled me, and I am told there is some difficulty in some other part of the country about some chief executive officer's salary, but since we have passed our golden anniversary and nobody has complained

in 50 years, I don't see why after that time we should have to seek approval. Further, if we do that and if we have the chief executive officer's salary fixed by ministerial approval, it is going to have the effect of freezing everybody below. In effect it would be direction all the way down the line. I don't know why anybody should suggest doing that.

At the present time under our present act we are entitled and empowered to acquire property for the benefit of the commission, and there is no restriction on our doing so. We don't have to ask anybody else's approval. That is under the existing act. Under section 10 of Bill S-10 the minister apparently would fix an amount, and we could make a purchase below that amount without permission, and anything above that we would have to apply to the minister for permission to purchase. The last time we got into a question of land purchase out there we were very much pinned in for time. We had to do it quickly if we were going to do it, and I think we would be hampered if we had to apply to Ottawa for permission to purchase a particular piece of property.

The next section we are concerned with is section 15 which deals with the revenues of the commission. There it sets out that revenues will be charged with certain items, and to that we have no objection, but the appropriation under reserves is subject to the approval of the minister and the revenues remaining at the end of the fiscal year shall be paid by the commission to the Receiver General. This has our friends in industry out there quite disturbed because they see this as a taxing device. They feel that if we are going to be told that we may have reserves over and above those approved expenses, and anything above that shall be turned over to the Receiver General, we are afraid and industry is afraid it is going to bring us into the general taxing structure, and that sooner or later we will be told we will have to raise so many dollars a year from this source. We don't think it is the intention of your house to put us into that position, the position of being a federal tax collection agency, but that is what this section does.

Senator CRERAR: Supposing your commission operated at a loss for two or three years in succession, how would this be made good?

Mr. CHAMBERS: We are happy, sir, that we have not had to meet that situation. I think we would have to, under our existing act, come to the department and request help if we ever got into that situation.

Senator CRERAR: If that were the case then obviously it qualifies the department to have that authority. It qualifies the authority which the department would have over the commission. If you are operating independently of any charge on the taxpayers and your services to your own city or district provided for your own finances in the event of losses, that is one thing. If on the other hand such losses do arise, and I am discussing the principle, and you call on the federal treasury for assistance, then that quite obviously puts the federal treasury in a rather different position.

Mr. CHAMBERS: I agree. There is one factor in this I have not mentioned, and that is that roughly 40 per cent of the North Fraser revenue at the present time—and this has been the case for several years past—comes from foreshore rentals of provincial government lands. We are in this unique position—and perhaps the officials can correct me if I am wrong—that we have very little federal foreshore in our harbour. Most is owned by the provincial government. Why that is I do not know, but it is there and has been for a long time. We act as the agents of the provincial government for the rental of these lots, and some 40 per cent of our annual revenue comes from the provincial government sources. They have put us in a position that we have been very solvent for a very long time. Under the regulations of the present act we are required, if

we are going to attempt to borrow money, to obtain permission for that. We have no borrowings and no debts.

Senator CRERAR: Is this a provincial government provision?

Mr. CHAMBERS: It was an arrangement made in a 21-year lease, which has some eight years to run, that the North Fraser Harbour Commission would act as the rental agents for the provincial government for this foreshore, and that the rentals would be divided between the commission and the provincial government. When this began there was very little development in the way of booming grounds. However, the revenues rose year by year, but what will happen at the end of the 21-year lease I cannot say. But it has had the result that some 40-odd per cent of our revenue comes from this source.

Senator KINLEY: Does the Government guarantee your bond?

Mr. CHAMBERS: We have no bond.

Senator KINLEY: You have the privilege to borrow money?

Mr. CHAMBERS: Under the North Fraser Harbour Commission Act we do have power to operate with approval from Ottawa. We have never exercised the power.

Senator KINLEY: What does that power carry with it? Can you guarantee bonds?

Mr. CHAMBERS: I could not answer you on that because the question has never arisen, and in the present state of the commission it is not likely to arise for many years.

Senator LAMBERT: There is one point I would like to ask Mr. Chambers. Does not the change that took place in connection with the administration of the harbour at Vancouver, and several other harbours that now come under the National Harbours Board, resemble very closely the change proposed in this bill as affecting the North Fraser Harbour Commission?

Mr. CHAMBERS: You are referring, sir, to the present position of creating this advisory committee?

Senator LAMBERT: I am saying that the change that took place in 1935 with respect to the administration of the National Harbours Board approximates very closely what is required here of the other harbours.

Mr. CHAMBERS: I am afraid I could not answer that. I have not done any research on the operation of the National Harbours Board.

Senator LAMBERT: I think it is important, because the finances of the harbours to which you are referring now were really transferred to the National Harbours Board.

Mr. CHAMBERS: I understand that that was the case, and that some of them were in serious financial difficulty, but this was long before I was of an age to have any interest in these matters. I would have to read a great deal in order to be able to answer that.

Senator LAMBERT: But you have heard something about that?

Mr. CHAMBERS: Yes, I have heard something about it.

The CHAIRMAN: I am not sure that I quite appreciate your point about section 15.

Mr. CHAMBERS: I think, sir, if we get into a position where we are required, if we have a surplus, to turn it over to the Receiver General of Canada, then sooner or later the Receiver General of Canada will start looking for a certain revenue from that source each year and we will then be in a position of becoming unofficially a federal collecting tax body. At the present, our revenues are raised only for local improvements and all of them are charged to industries which use the harbour.

Senator LEONARD: Can you ask them to make good a loss?

Mr. CHAMBERS: We have not asked that, sir. We have operated without that problem, and we are not looking for any subsidies.

Senator LEONARD: The fears you express are groundless, of course, if you do not pass the by-law which would bring you under this act.

Mr. CHAMBERS: As the act stands at present, yes, but we are afraid that if you have, as has been suggested, a great many new harbour commissions, and they all come under this act, there will be further legislation coming up to bring us in without the safeguards that you have built in here.

The CHAIRMAN: I do not think you can—

Mr. CHAMBERS: We cannot anticipate that.

Senator LEONARD: You are submitting a defence against the possibility of this being done?

Mr. CHAMBERS: Quite so, sir.

Senator CRERAR: If your commission gets into trouble financially then you will look to Ottawa to bail you out?

Mr. CHAMBERS: If we get into that situation we would have to look to Ottawa or to the surrounding municipalities, or, as long as we are administering this provincial foreshore, we might have to look to the provincial Government, and all sources. But in the last analysis I think we would probably, if we got into that situation, be coming to Ottawa.

Senator CRERAR: Do you think you would have any chance of getting anything out of the provincial Government in those circumstances?

Mr. CHAMBERS: They have a large investment in there. I do not know.

Senator CRERAR: I think the point is rather crucial. The point that I am trying to get at rather clumsily is: Where does the ultimate financial responsibility rest? If it rests with Ottawa then quite obviously it must fit in with the responsibility that Ottawa takes.

Mr. CHAMBERS: I think the ultimate responsibility would have to rest with Ottawa to the extent that we are a creation of the federal Government. If we get into trouble financially we would have to go back to our parent here in the long run for help.

Senator CRERAR: I am not saying at the moment that I wholly agree with the principle upon which this is based, but as long as that is the circumstance then I think Ottawa must have the final word.

Senator BAIRD: In view of the fact that you expect, if you have a deficit, to come to Ottawa why should not Ottawa take any profits that you make at any time?

Mr. CHAMBERS: I will put it in this way, that if they do not take the profits we are not as likely to have a deficit.

Senator BAIRD: That may be so, but at the same time you are hedging all around.

Mr. CHAMBERS: As far as I have been able to research into the affairs of this commission the problem of deficits has not arisen.

Senator MOLSON: What is the annual revenue of the commission?

Mr. CHAMBERS: The annual revenue last year—and I think you have our report on file—was \$207,000.

Senator MOLSON: What was the profit?

Mr. CHAMBERS: There was an excess of revenue over expenditures of \$59,000.

Senator MOLSON: What are the reserves or surplus, or both?

Mr. CHAMBERS: There is a reserve for harbour improvements and emergencies of \$105,000, and there are funds invested in fixed assets of \$270,000.

Senator McCUTCHEON: Do you charge depreciation on your books?

Mr. CHAMBERS: Yes, sir, there is a depreciation account.

Senator McCUTCHEON: Was the figure of \$90,000 before or after depreciation?

Mr. CHAMBERS: That was after depreciation.

The CHAIRMAN: May I interrupt for just a moment? The minister tells me he has to leave very soon, and he would like to have an opportunity of saying a few words to the committee before he leaves. Can I ask you to defer, Mr. Chambers?

Mr. CHAMBERS: Certainly, sir.

Senator REID: In order to save time may I ask the minister to explain section 27 and also subsection (2) of section 30?

Hon. Mr. PICKERSGILL: Yes, I would be glad to say a word on that.

Mr. Chairman and Senators, I am not going to say anything whatever about the purposes of the legislation because it is obvious that you are as well acquainted with it as I am. I do not intend to deal with problems which have been raised here this morning, but I do want to say that the prime purpose of the bill is to establish a standard procedure for creating new harbour commissions so that the time of Parliament will not be taken up—and time becomes more precious every year with the complexity of the legislation we have to deal with—in dealing with something that can be covered by a standard procedure laid down by Parliament. The representations we have listened to this morning are rather on the margin of this bill, and are not directly connected with its main purpose at all.

I would like to say a word first about the North Fraser representations. Without excluding the North Fraser Harbour Commission I believe I am correct in saying that no other commission is better protected from coming under this act as long as it wants not to, because I understand the commissioners are appointed, like you gentlemen, for life. Therefore, unless a majority of them decide that there is an advantage in coming under this act there is no way, even if you enact the legislation, by which the Government can impose it upon them. Only Parliament can do that, and it seems to me, therefore, that their apprehensions are perhaps a little exaggerated.

There is one other observation I ought to make because I am a member of the administration which has to recommend expenditures and also taxation for this country. It is that while the North Fraser Harbour Commissioners are in a very excellent financial condition, they are in that excellent financial condition in part because the taxpayers of Canada have paid about \$200,000 a year, my officials inform me, to keep that harbour dredged. That is not a charge on the harbour but is a charge on the treasury of Canada. It may be that the whole situation of a harbour which is producing as much revenue as this one is should be looked at again to see if the user principle would not be a sounder principle to apply than the principle of having the local body collect the revenues, and the taxpayers of Canada generally paying the major expenditure. That is a broad question which has no direct bearing on the representations that have been made today, but it does have some bearing on the point that if the federal treasury—and this was indicated in the case of Oshawa too—is to pay the major costs then any profits from these commissions should properly be returned to the treasury. It seems to me that this is a principle which is easy to defend and very difficult to make a strong case against.

I hope that senators will not think I am too treasury-minded or too much of a penny-pincher, but I am really alarmed at the extent to which from all

parts of the country there are demands for expenditures for purposes that have a national aspect but that are also *quasi* local, with the suggestion that the defraying of these expenditures should come out of the taxpayers' pockets at large, because the taxpayers at large are just individual taxpayers too. However, I did not come here to give a lecture on public finance, sir, and I apologize. But I do not think that the apprehensions—which are not really so much about this bill itself but about the possible consequences of the North Fraser Harbour Commissioners wanting to come under the bill—are very serious. There is not the slightest likelihood they will come under the bill, from the representations we have heard; and there is no way they can be compelled to do that unless the present commissioners were to resign in a body and allow the Governor in Council to appoint new commissioners who were previously pledged to bring the commission under this bill. I believe that was tried once with respect to a more august body, and it did not work. You perhaps will recollect what I am alluding to. So I would think that the apprehensions expressed are exaggerated, and I would hope the commissioners would not press to have themselves taken out of the schedule as a possibility in the rather remote future that this commission might come under this act. It is certainly a matter of no urgency, and I do not think it really should prejudice our view of the merits of the bill itself.

With respect to the representations made by the solicitor for the City of Oshawa, I am rather impressed by his point about the consent of the municipality. I would be quite happy myself if clause 30 could be amended, if honourable senators, in consultation with the officials of my department, would care to do so before sending the bill on to our house, to provide that where only one municipality is involved the consent of the corporation might be obtained, and that if several municipalities are directly involved consent of the majority of those municipalities might be obtained. I would not think it would be reasonable to say that if there are four or five municipalities, one single one could have a veto. But if something of that sort could be done—and I am not attempting to draft it because I am not a draftsman—since it only affects existing harbour boards and since we do not want to do anything in a way that is not satisfactory to the local authorities, it seems to me this would be a sensible provision, and I would be very happy to sponsor in our house a bill amended in that way.

With regard to the inspection of the books, I am a little troubled by this suggestion. Since the municipality in the case of Oshawa, since the municipality in every other case where it will have any standing in respect of the harbour commission is represented on the harbour commission anyway, and since the representative of the municipality being one of the commissioners would have the inherent right at all times to inspect the books, it seems to me that this is almost redundant. If it is for the proper purpose of inspection, that is, of audit—and we do know these harbour commissions are engaged in business—to have the books open to the inspection of any member of the council, it does seem to me this might conceivably create problems which I do not want to try and envisage but which perhaps honourable senators could envisage for themselves. So I would feel that the municipalities are adequately protected. But if it works out that in the case of a municipality having a substantial interest in real estate it could make an agreement with the harbour commission, if it was necessary to put that in the bill—and I am not a lawyer, and I do not know—but in order to make sure their interest was properly protected, that the auditor of the municipality also be empowered to look into the books, it seems to me that might not be unreasonable. But I would really rather not. Just as I would have some objection to having the members of our house allowed to inspect all the details of the administration of the department, which Parliament has never

claimed the right to do, I would be a little dubious, as a matter of principle, about having municipal politicians being permitted to inspect the books of these harbour commissions.

As for the point raised both by the solicitor for the City of Oshawa and Senator Reid with respect to clause 27, I must say the way it reads at the present time it seems rather arbitrary, and I would think there should be some provision for a proper notification to be made, in the Canada Gazette or somewhere else, a certain length of time before, and an opportunity for interested parties, including any municipality concerned, to make representations before this power of dissolving a harbour commission was exercised. I would have no objection whatsoever to an amendment of that kind being put into the bill and would be very glad indeed to sponsor it, because reading as it does it looks like a rather arbitrary power to me.

Senator REID: It looks to be in conflict with section 30.

Hon. Mr. PICKERSGILL: I do not think it is, because section 27 applies to harbour commissions that may come into existence in the future or to any that come under that act. Section 30 only applies to the eight harbour commissions listed in the schedule, so they deal with different things. The principle is different in the two cases. I would not be willing, of course, to go the whole length of saying there must be a by-law from the harbour commission, because there have been cases arising from time to time when it would, I think, be very difficult to get such a by-law and when there would be good and sufficient reasons for the dissolution. These are very rare occurrences, but I think it would be possible for senators to envisage certain conditions where that might arise. However, it is a residual power, in any case, and I do not think any minister is very likely to go about like the White Queen in Alice in Wonderland casually lopping the heads off harbour commissions. He probably would not be a minister very long if he did.

The CHAIRMAN: Are there any questions of the minister? The minister is anxious to leave.

Hon. Mr. PICKERSGILL: I am not so much anxious to leave, but I am keeping other people waiting.

Senator GROSART: Did I understand the minister to say he would have no objection to the books of a harbour commission being open to inspection by the auditors of the municipality, under proper authority?

Hon. Mr. PICKERSGILL: In any case where the municipality had any material interest. It does not seem to me there are sufficient powers of audit here. Where the municipality has no material interest it does not seem to me this would be appropriate, but where it has I think it is only proper it should have the right to have its own auditors inspect the books, to make sure its interest is being properly looked after. I do not know how difficult this would be as a drafting proposition.

Senator GROSART: As one senator who is not a member of this committee but who has raised certain questions, I hope it would not be considered presumptuous of me if I commend the minister for his usual sweet reasonableness in this matter.

Senator CRERAR: I would like Mr. Pickersgill to comment on section 3. I am not quite clear what that means. Does that mean that if someone wanted to create a harbour commission for Waskana Lake in Regina, if there was sufficient influence brought to bear a harbour commission could be declared for that?

Hon. Mr. PICKERSGILL: I am not sure that Waskana Lake is a navigable water.

Senator CRERAR: This provision seems pretty broad.

Hon. Mr. PICKERSGILL: Senator Crerar and I know very well there is a harbour commission that was in the schedule of the bill which was considered last session, but is not here now. I refer to Winnipeg and St. Boniface Harbour Commission which I understand came under some considerable discussion by the committee. As long as the present minister is around he is not likely to be creating a harbour commission in fresh waters except the Great Lakes. In fact we don't envisage many new harbours being created anywhere even under this legislation. I happen to know of one place, and I was there last week, where there is serious consideration being given to a harbour commission, and that is Corner Brook. Then there is St. John's harbour which is waiting for this legislation to be passed so that a harbour commission can be created for this historic port which is the oldest port and the oldest city in Canada. Apart from those I am not personally aware of any others. It is quite obvious a harbour commission would not be created in any place that didn't have sufficient size and traffic to warrant the rather expensive paraphernalia. For smaller harbours the ordinary procedure of having a harbourmaster is quite adequate, and the complicated and elaborate structure provided in this act would not be applied.

Senator CRERAR: You cannot guarantee that every minister would take that view.

Hon. Mr. PICKERSGILL: I think the Governor in Council would always feel that. He would always feel that a place that didn't have much importance as a harbour would not get a harbour commission unless it was going to cost the treasury money and the Minister of Finance might be a countervailing influence. Furthermore the Minister of Transport is a *quasi* dictator over a harbour that does not have a harbour commission, and in establishing such a commission he is whittling down his own power, and that too might be a restraining influence.

The CHAIRMAN: Do you think we might let the minister go?

Senator GROSART: Before the minister goes, Senator Leonard has brought something to my attention which I should mention in his presence. I made some rather severe criticisms in the Senate of the actions of the department to municipalities, in particular with respect to Oshawa, in the matter of notification of the meetings of this committee. Senator Leonard has given me some subsequent information which does indicate that my criticism was overly severe. While I still think there was an area for some misunderstanding I should say I believe that at all times the department did act in good faith.

The CHAIRMAN: Now while we are in an atmosphere of sweetness and light can we let the minister depart?

Hon. Mr. PICKERSGILL: I thank you very much for listening so patiently to my irrelevancies, and I feel that any changes honourable senators make in this bill will be improvements. Thank you.

The CHAIRMAN: Does the committee wish to proceed with Mr. Chambers? There have been some developments in view of the suggestions made by the minister for changes. Mr. Ross Tolmie represents the forest industries of British Columbia. Do you have anything to add, Mr. Tolmie?

Mr. Ross Tolmie, Parliamentary Agent, representing Council of Forest Industries of British Columbia: Very briefly. Mr. Chairman, honourable senators, basically my clients, the Council of Forest Industries of British Columbia, take the same view that the North Fraser Harbour Commissioners take. They are the users of this harbour to a very large extent. It is almost entirely a harbour for the forest industries, as honourable senators know. Their chief concern, Mr. Chairman, is the preservation of the separate entity of the North Fraser

Harbour Commission. We would be very, very concerned at the possibility of this harbour being integrated with either of the two other harbours, New Westminster or Vancouver. They believe that the separate nature and identity and special problems of the North Fraser harbour, which is a shallow harbour and is not used for deep sea transports, being almost exclusively for logs, lumber and sawdust, and which serves local needs and requires local autonomy. They would shudder at the thought of any possibility of a metropolitan harbour consisting of all the lower region.

The CHAIRMAN: I would assume that the relationship between these industries you represent and the existing commission are pretty close?

Mr. TOLMIE: Yes.

The CHAIRMAN: That being so don't you think you have sufficient protection under subsection 2 of section 30:

No proclamation shall be issued pursuant to subsection (1) unless the Governor in Council has received a by-law passed by the Commission requesting the Governor in Council to declare the Commission to be established pursuant to this Act.

If there was any question of doing that at that time I would think your clients would make representations to the commission, and they would have to be satisfied before the commission took that action.

Mr. TOLMIE: I think, Mr. Chairman, the minister's undertaking a few moments ago meets in large measure some of the fears they might otherwise have as to the possible future disappearance of a separate harbour. But essentially the forest industries using the North Fraser harbour are concerned about the maintenance of the status quo and a separate harbour entity.

The CHAIRMAN: Any questions for Mr. Tolmie? Honourable senators, I think we have reached the position where the minister has said that he would agree to three amendments in the bill. I think they completely meet the views of the City of Oshawa. Is that not so, Mr. McNeely?

Mr. McNEELY: That is correct.

The CHAIRMAN: The suggestions the minister made for changes are, first of all, in section 17 the right to inspect the books—the minister suggests he would be happy to accept an amendment allowing the auditor of a municipality to inspect the books of the local harbour in that municipality. He did make a qualification that they should only be allowed to do so where the municipality had some proper interest. I think that is a little difficult to put into language, but I would think we could quite properly draft an amendment extending the rights of auditing the books to auditors of any municipality adjoining the harbour.

Senator REID: The municipality must have some proper interest for looking at the books. It would not of necessity be the auditor of every municipality adjoining the harbour.

The CHAIRMAN: You are speaking now of the North Fraser?

Senator REID: No, New Westminster.

Senator LEONARD: You are assuming New Westminster would come under this?

The CHAIRMAN: The second amendment offered by the minister is to section 27 which gives the right to the Governor in Council to dissolve a commission, and he is willing to amend this by providing that before any such dissolution takes place the Governor in Council will inquire and invite representations from any interested party.

Then, in section 30(2) the proclamation bringing one of these existing harbour commissions under the new act will require the consent not only of

the local commission, as now provided in subsection (2), but of the municipality concerned, or, in case more than one municipality is concerned, the majority of municipalities.

If those suggested amendments meet with the approval of the committee, my suggestion would be that we instruct our Law Clerk to get in touch with the legal branch of the Department of Transport and ask it to bring these amendments before us at a further meeting.

Senator LEONARD: The Counsel for the department, Mr. Fortier, is present. He has suggested that if we meet again at 2.15 the amendments might be ready. Can I suggest we meet at that time for this purpose, Mr. Chairman?

The CHAIRMAN: If the committee is willing to do that, it will save time. If the amendments can be ready by 2.15 is the committee willing to adjourn now until 2.15 to consider them?

Senator SMITH (*Queens-Shelburne*): There is one small point. The minister did mention with reference to section 27 that perhaps a notice in the Canada Gazette would be sufficient. You did not mention that in your remarks, Mr. Chairman.

The CHAIRMAN: Notice in the Canada Gazette?

Senator SMITH (*Queens-Shelburne*): Yes, notice as to whether or not they would dissolve a commission. The minister thought that a notice should be published in the Canada Gazette. You did not mention that, and I thought it might be important.

The CHAIRMAN: Yes, I think that a notice of that kind in the Canada Gazette and an invitation to any interested parties to make representations should be included. Is that agreeable to the committee? Shall we adjourn now until 2.15?

Senator ISNOR: There is one question with respect to the schedule on page 11. Can I take it for granted that only two have made representations? Do we take it that the other six are agreeable?

The CHAIRMAN: They were sent two notices, senator, and very few of them have replied. The only ones who have replied are the ones who have appeared before us this morning.

Senator ISNOR: Thank you.

Senator SMITH (*Queens-Shelburne*): Might I mention, Mr. Chairman, that in conversation with you last evening you did indicate to me that possibly the question of when the committee would consider the amendments to the Canada Shipping Act would be brought before the meeting this morning in order that it may determine a possible date for their consideration.

The CHAIRMAN: If the committee would like to consider that now then I am willing, or shall we wait until 2.15?

Senator KINLEY: Do any people want to appear before the committee on that bill?

The CHAIRMAN: The bill to amend the Canada Shipping Act is an important and complex one. Quite a number of people have asked to appear before us to make representations with respect to it. I was going to suggest to the committee that we hold the first meeting of the committee on that bill alone, and ask the Government officials responsible to appear before us and explain the bill to us so that we know more about it before we ask other bodies to make their representations. Does that meet with the committee's approval?

Hon. SENATORS: Agreed.

The CHAIRMAN: Perhaps we can determine before we adjourn at 3 o'clock when the committee will meet to consider the bill to amend the Canada Shipping Act. Shall we now adjourn until 2.15?

Hon. SENATORS: Agreed.

The committee adjourned at 11.20 a.m. until 2.15 p.m.

Upon resuming at 2.15 p.m.

The CHAIRMAN: Honourable senators, we have a quorum, so I call the committee to order again.

I now have the drafting of the three amendments which were discussed this morning, to the principle of which the minister agreed, as honourable senators recall. I will take them in order. The first is in section 17 on page 7. Honourable senators will recall that was the question of whether a municipality having an interest in the harbour would have the right to have its auditors have access to the books and accounts. The suggestion is that at the end of subsection 2 we add these words:

, or, in the case of a municipality having a substantial interest in the harbour, as determined by the Minister, by the auditors of such municipality.

With that amendment subsection 2 would read:

All books, accounts, records and documents of the commission shall be at all reasonable times open for inspection by the Minister or by a person authorized by the Minister for such purpose, or, in the case of a municipality having a substantial interest in the harbour, as determined by the Minister, by the auditors of such municipality.

That puts it in the hands of the Minister to determine whether a municipality has a substantial interest.

Senator REID: Is that an amendment?

The CHAIRMAN: It is an amendment to subsection (2) of section 17.

Senator MOLSON: Could we have that again?

The CHAIRMAN: Shall I read subsection (2), with the amendment?

Senator MOLSON: Yes.

The CHAIRMAN: This is on page 7. Section 17(2) will now read as follows:

All books, accounts, records and documents of the Commission shall be at all reasonable times open for inspection by the Minister, or, by a person authorized by the Minister for such purpose, or, in the case of a municipality having a substantial interest in the harbour, as determined by the Minister, by the auditors of such municipality.

Senator McCUTCHEON: I am sorry, Mr. Chairman, but I was not here this morning. What is the purpose of this amendment?

The CHAIRMAN: The City of Oshawa, which has quite a substantial interest in the land of the harbour of Oshawa, objected to this bill on the ground that under their present bill the municipality is entitled to examine the books of the harbour commission. This amendment was suggested to meet that objection. This being a general bill, it will apply to all harbour commissions which come under it.

Senator McCUTCHEON: As I understand what you read now, it is still within the discretion of the minister?

The CHAIRMAN: It is within the discretion of the minister to determine whether the municipality in question has a substantial interest in the harbour.

Senator POWER: If he decides it has not, the municipality will have no right to look at the books?

The CHAIRMAN: Yes.

Senator McCUTCHEON: If he decides they have—and I think in the case of Oshawa it would be very difficult to decide they did not have—how many people are going to go in and paw over these books?

The CHAIRMAN: Only the auditors.

Senator McCUTCHEON: How many in the North Fraser region can do it?

The CHAIRMAN: There are only three municipalities concerned in the North Fraser Harbour Commission. Whether each would have the right to have its auditor go in and examine the books would depend upon whether the minister determined that that particular municipality had a substantial interest.

Senator McCUTCHEON: Well, I would not object to it seriously, but I should think if the municipality was entitled to receive an audited statement that that ought to take care of the situation. The actual fact is that the municipalities now named in this bill contribute very little to the harbour commission. They may have leased 50 acres of land, as Oshawa has, but they all rely on the Government to look after them. They all rely on the federal Government to make large expenditures on their harbours. Surely if they get an audited statement they are not entitled to any more. However if the majority of the committee favour the amendment—

The CHAIRMAN: I frankly don't think it is a matter of great importance one way or the other. But this was suggested and the committee has approved and the minister has agreed.

Senator POWER: That amendment would appear to me to be limiting the right of the municipality.

The CHAIRMAN: Under the bill there is no authority.

Senator POWER: You are authorizing the people who the minister says have an interest. Why would the minister authorize them if they have not an interest? I think it is an unhandy thing to put in. The minister, in order to authorize now with your amendment, would be obliged to say that these people have a substantial interest. Without your amendment the minister could say, "Here is authority, go ahead and do it."

The CHAIRMAN: No, I don't think subsection (2) works that way. I don't think it will allow the minister to authorize some outside person to have a look at the books. It would have to be his own staff.

Senator LEONARD: I think, Mr. Chairman, the purpose of this is really to meet the case of Oshawa which has a substantial interest in the harbour. Up to now without this amendment municipalities have no right of audit at all. This is to give a right to a municipality that has a substantial interest. Somebody has to determine the substantial interest, because you would not want frivolous applications from municipalities which have very, very nominal interests. I think it is quite right and proper that in a case of this kind, where you are giving a right that does not exist in the bill, to leave the discretion with the minister to decide as to whether or not the municipality has a sufficient interest to warrant its auditor having the right of examination.

The CHAIRMAN: Do you move the amendment, Senator Leonard?

Senator LEONARD: I am not a member of the committee.

Senator ISNOR: I move the amendment.

The CHAIRMAN: Shall the amendment carry?

Hon. SENATORS: Agreed.

The CHAIRMAN: The second suggested amendment was on page 9, line 4. That is in section 27 of the bill. Section 27 now says:

The Governor in Council may order any Commission established pursuant to this Act to wind up its affairs and may by proclamation dissolve any Commission in respect of which such an order has been made.

The objection was taken this morning that some sort of notice should be given to interested parties in the event of such an order being made so that they might make representations, if they wished, to the effect that the commission should not be abolished or dissolved.

The suggestion here is that we add a proviso to section 27 to this effect:

provided that such order or proclamation shall become effective only upon the expiration of 90 days from the date of publication thereof in the Canada Gazette.

That would give any interested party who objected to the proposed order of dissolution the right to appear before the minister and make such representations as he wished.

Senator McCUTCHEON: Agreed.

The CHAIRMAN: I think that is reasonable. Is there any comment on that?

Senator MOLSON: That is a very short period, Mr. Chairman, do you not think?

The CHAIRMAN: Ninety days?

Senator MOLSON: It seems to me that it would take a harbour commission, in practice if not in theory, considerably more than 90 days to be wound up.

Senator McCUTCHEON: It is only the order.

Mr. STEAD: The intention, sir, was that nothing would actually start happening until 90 days expired, because the order to wind up does not become effective until the appeal period has run its course.

The CHAIRMAN: Do all honourable senators agree to that amendment?

Hon. SENATORS: Agreed.

The CHAIRMAN: The third, and perhaps most important, amendment is to subsection (2) of section 30 which is to be found on page 9. That deals with the case of these existing harbour commissions which may desire to come in under the new act. Honourable senators will recall that under subsection (2) as it stands now the Governor in Council cannot make a proclamation bringing one of these existing commissions under the new act unless he has received a by-law passed by the harbour commission itself requesting that. The objection was made this morning that some of the municipalities under whose auspices the harbour commissions were originally set up might themselves have a substantial interest in one way or another in whether the harbour commission in question should come under the new act, and that they should have the right to be consulted. So, the amendment proposed is this: in place of the present subsection (2) the new subsection will read as follows:

No proclamation shall be issued pursuant to subsection (1) unless the Governor in Council has received

(a) a by-law passed by the Commission requesting the Governor in Council to declare the Commission to be established pursuant to this act;

There is no change thus far, but here is the new part:

(b) a resolution or resolutions by the Councils of all municipalities having power to appoint or to participate in the appointment of a member of any harbour commission listed in the Schedule to this act, or, where the number of such municipalities is more than two, by the councils of the majority of such municipalities.

Now, in the case of Oshawa, where there is only one municipality involved, that would mean not only a by-law passed by the harbour commissioners but a

resolution of the council of the City of Oshawa. In the case of New Westminster, where there are a whole lot of municipalities interested, it would mean a resolution passed by a majority of those municipalities as well as a by-law passed by the harbour commissioners.

Senator POWER: Did you say a majority?

The CHAIRMAN: Yes, a majority. Do you want me to read that part again, Senator?

Senator POWER: Yes.

The CHAIRMAN: I will read the new part of it again because the first part is substantially as it now reads:

(b) a resolution or resolutions by the Councils of all municipalities having power to appoint or to participate in the appointment of a member of any harbour commission listed in the Schedule to this act, or, where the number of such municipalities is more than two, by the councils of the majority of such municipalities.

Senator MOLSON: Mr. Chairman, what happens when there are two and you get one resolution?

The CHAIRMAN: I am sorry; the Law Clerk tells me that I made a mistake. The first part of that subsection should read:

(b) a resolution or resolutions approving such by-law passed by the Councils—

Senator BOUFFARD: But suppose there are two municipalities?

The CHAIRMAN: Where there are two they would both have to approve. You cannot have a majority when there are two.

Senator REID: Could you say what would happen in the case of just one board, one city?

The CHAIRMAN: Where there is one city?

Senator REID: I have a harbour board in mind. There are three appointees there, one from the city and two elected by the Government.

The CHAIRMAN: We are not talking about the commission, we are talking about the municipality. How many municipalities?

Senator REID: We have ten municipalities contributing to the board under the act.

Mr. STEAD: In the case of New Westminster—this is intended to refer only to the City of New Westminster as presently constituted—the New Westminster Harbour Commission Act gives the power of appointing to one city only, the City of New Westminster.

Senator REID: Two by the Government.

Mr. STEAD: Yes.

The CHAIRMAN: This makes this change. In order for the New Westminster Harbour Commission to come under the act, two things have to happen. First, the harbour commission themselves have to pass a by-law asking to come under the act. Secondly, the city council of New Westminster has to pass a resolution approving of that by-law.

Mr. STEAD: That is right.

Senator MOLSON: What happens if two municipalities are interested?

The CHAIRMAN: If you read the amendment, you will see it says "a resolution or resolutions by the councils of all municipalities having power to appoint or to participate..." If there are two of them, then both of them have to pass resolutions. But then it says "or, where the number of such municipalities is more than two, by the councils of the majority of such municipalities."

Senator MOLSON: Are there any of these scheduled harbours where there are two municipalities interested? I ask this because I wonder if there is any possibility that there is one municipality which has a major interest in the harbour and another, what might be called a fringe municipality, which has some interest in the harbour, where the fringe municipality might block the will of the majority concerned by withholding the resolution required.

Mr. STEAD: There are two such cases. One is the Lakehead, the other is Port Alberni. In both those cases the acts they have now are very similar to the provisions in this bill. Therefore, the issue will not be of any great significance, if it arises in these two cases.

Senator REID: North Fraser has three municipalities.

The CHAIRMAN: Then there would have to be a majority of those municipalities.

Mr. STEAD: In the three municipalities the majority would have to agree, because there are three participating in the appointment of one member.

The CHAIRMAN: Is there any further discussion?

Senator LEONARD: I wonder if the representatives here from Oshawa or North Fraser have anything to say before we report the bill.

The CHAIRMAN: We would welcome any further representations.

Mr. CHAMBERS: As we indicated this morning, the board is taken out of the schedule. The amendments proposed go a long way to meet our objections to the bill as originally drafted.

Mr. McNEELY: Our main objection was on the point in the amendment we have just discussed, and it has been fully met. The other point raised in respect to access to the books, has been met. It has been pointed out, of course, that it depends on the new statute, having a substantial interest in the harbour. I think that in this case "harbour" is employed geographically as a division line and not as a highway. It is up to the committee, of course, but the minister did say—I obtained a transcript of this remarks—that he would be satisfied to have the municipality's auditor have the right to inspect the books in any case in which the municipality had a material interest in the harbour. I think there is probably a difference between a material interest and a substantial interest. Subject to those observations, with respect to that one point, the amendments meet our position.

The CHAIRMAN: Shall the third amendment, that is, to clause 30 subsection (2), carry?

Hon. SENATORS: Agreed.

The CHAIRMAN: With regard to the remainder of the bill, do we need to go through it section by section? I think we became well acquainted with the sections on two other occasions.

Hon. SENATORS: Agreed.

The CHAIRMAN: Shall I report the bill with these three amendments?

Hon. SENATORS: Agreed.

Whereupon the committee adjourned.



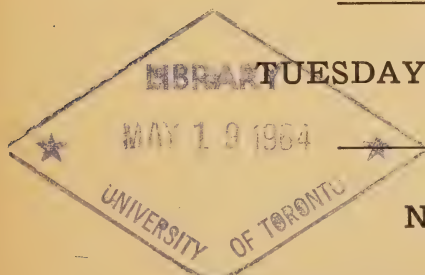
Second Session—Twenty-sixth Parliament
1964

THE SENATE OF CANADA
PROCEEDINGS
OF THE
STANDING COMMITTEE
ON
TRANSPORT AND COMMUNICATIONS

To whom was referred the

X Bill S-10, An Act to provide for the
Establishment of Harbour Commissions

The Honourable A. K. HUGESSEN, *Chairman*



No. 2

REPORT OF THE COMMITTEE

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1964

THE STANDING COMMITTEE
on
TRANSPORT AND COMMUNICATIONS

The Honourable
ADRIAN K. HUGESSEN,
Chairman

The Honourable Senators

Baird,	Macdonald (<i>Brantford</i>),
Beaubien (<i>Provencher</i>),	McCutcheon,
Bouffard,	McGrand,
Bradley,	McKeen,
Buchanan,	McLean,
Connolly (<i>Halifax North</i>),	Méthot,
Croll,	Molson,
Dessureault,	Monette,
Dupuis,	Paterson,
Farris,	Pearson,
Gélinas,	Phillips,
Fournier (<i>Madawaska-Restigouche</i>),	Power,
Gershaw,	Quart,
Gouin,	Reid,
Haig,	Robertson (<i>Shelburne</i>),
Hayden,	Roebuck,
Hollett,	Smith (<i>Kamloops</i>),
Horner,	Smith (<i>Queens-Shelburne</i>),
Hugessen,	Stambaugh,
Isnor,	Taylor (<i>Westmorland</i>),
Jodoin,	Thorvaldson,
Kinley,	Veniot,
Lambert,	Vien,
Lang,	Welch,
Lefrançois,	Woodrow—(50).

Ex officio members

Brooks,
Connolly (*Ottawa West*).

(Quorum 9)

ORDER OF REFERENCE

Extract from the Minutes of the Proceedings of the Senate, Wednesday, March 18th, 1964.

"Pursuant to the Order of the Day, the Honourable Senator Leonard moved, seconded by the Honourable Senator Inman, that the Bill S-10, intituled: "An Act to provide for the Establishment of Harbour Commissions", be read the second time.

After debate, and—

The question being put on the motion, it was—

Resolved in the affirmative.

The Bill was then read the second time.

The Honourable Senator Leonard moved, seconded by the Honourable Senator Farris, that the Bill be referred to the Standing Committee on Transport and Communications.

The question being put on the motion, it was—

Resolved in the affirmative."

J. F. MACNEILL,
Clerk of the Senate.

MINUTES OF PROCEEDINGS

TUESDAY, May 5, 1964

Pursuant to adjournment and notice the Standing Committee on Transport and Communications met this day at 10.30 a.m.

Present: The Honourable Senators Hugessen (*Chairman*), Baird, Brooks, Buchanan, Connolly (*Ottawa West*), Croll, Fournier (*Madawaska-Restigouche*), Gershaw, Gouin, Haig, Hollett, Isnor, Kinley, Lambert, Lefrançois, McGrand, Méthot, Pearson, Power, Quart, Reid, Smith (*Kamloops*), Smith (*Queens-Shelburne*), Stambaugh, Thorvaldson, Veniot and Woodrow—27.

In attendance: Mr. E. Russell Hopkins, Law Clerk and Parliamentary Counsel.

The Committee reconsidered the amendment to sub-paragraph (b) of paragraph 2 of section 30 of Bill S-10, intituled: "An Act to provide for the Establishment of Harbour Commissions", as amended on Thursday, April 30, 1964.

On Motion of the Honourable Senator Croll it was Resolved to revise the amendment to read as follows:

- (b) a resolution or resolutions approving such by-law, passed by the council of any municipality having power to appoint or to participate in the appointment of a member of the Commission, or where there is more than one such municipality, by the councils of a majority of such municipalities.

At 10.10 a.m. the Committee concluded its consideration of Bill S-7.

Attest.

F. A. Jackson,
Clerk of the Committee.

REPORT OF THE COMMITTEE

TUESDAY, May 5, 1964.

The Standing Committee on Transport and Communications to whom was referred the Bill S-10, intituled: "An Act to provide for the Establishment of Harbour Commissions", have in obedience to the order of reference of March 18, 1964, examined the said Bill and now report the same with the following amendments:

1. *Page 7:* Strike out subclause (2) of clause 17 and substitute therefor the following:

(2) All books, accounts, records and documents of the Commission shall be at all reasonable times open for inspection by the Minister or by a person authorized by the Minister for such purpose, or, in the case of a municipality having a substantial interest in the harbour, as determined by the Minister, by the auditors of such municipality.

2. *Page 9:* Strike out clause 27 and substitute therefor the following:

27. The Governor in Council may order any Commission established pursuant to this Act to wind up its affairs and may by proclamation dissolve any Commission in respect of which such an order has been made: Provided that such order or proclamation shall become effective only upon the expiration of ninety days from the date of the publication thereof in the Canada Gazette.

3. *Page 9:* Strike out subclause (2) of clause 30 and substitute therefore the following:

(2) No proclamation shall be issued pursuant to subsection (1) unless the Governor in Council has received

(a) a by-law passed by the Commission requesting the Governor in Council to declare the Commission to be established pursuant to this Act; and

(b) a resolution or resolutions approving such by-law, passed by the council of any municipality having power to appoint or to participate in the appointment of a member of the Commission, or where there is more than one such municipality, by the councils of a majority of such municipalities.

All which is respectfully submitted.

A. K. HUGESSEN,
Chairman.

THE SENATE
THE STANDING COMMITTEE ON TRANSPORT
AND COMMUNICATIONS
EVIDENCE

OTTAWA, Tuesday, May 5, 1964.

The Standing Committee on Transport and Communications to which was referred Bill S-10, respecting the Establishment of Harbour Commissions, met this day at 10.30 a.m.

Senator A. K. Hugessen (*Chairman*), in the Chair.

The CHAIRMAN: Honourable senators, it is 10.30 and we have a quorum, so I suggest that we come to order.

The primary purpose of this meeting of the committee is to consider the amendments to the Canada Shipping Act, but before we do that there is one matter I would like to refer to the committee in connection with our work last week.

The committee will remember that last Thursday we sat all morning on the Harbour Commissions bill, and we suggested three amendments to that bill which were worked upon during the luncheon interval by our Law Clerk in conjunction with counsel for the department. They did a great deal of work upon it and brought in three amendments which we agreed to after lunch. These amendments were naturally drafted in a hurry, and the Department of Justice apparently would like to have a minor verbal change made to one of those amendments, of which I am now advising you.

You will remember, I think, the principal change we made in the Harbour Commissions bill was in section 30, which permits an existing harbour commission to come under the new act. The bill as originally drafted said that that could not be done without a by-law being passed by the harbour commission concerned, and we added to that a requirement it should meet with the approval of the municipality in which the harbour was situated.

The amendment we made for that purpose, and which we adopted last week, reads as follows:

a resolution or resolutions—

Senator REID: What section is this?

The CHAIRMAN: Section 30 of the Harbour Commissions bill.

a resolution or resolutions approving such by-law, passed by the councils of all municipalities having power to appoint or to participate in the appointment of a member of any harbour Commission listed in the Schedule to this Act, or, where the number of such municipalities is more than two, by the councils of the majority of such municipalities.

The Department of Justice suggests—and this is a matter of semantics—that we should change that paragraph (b) to read as follows:

a resolution or resolutions approving such by-law, passed by the council of any municipality having power to appoint or to participate in the appointment of a member of the Commission, or where there is more than one such municipality, by the councils of a majority of such municipalities.

We had put some unnecessary words in our draft, where we said:

... any harbour Commission listed in the Schedule to this Act, ...

We did not need to do that because it is referred to elsewhere in the section. It is merely a matter of verbiage. The only interesting thing about it is that Senator Molson at the last meeting raised the question as to what would happen if there were two municipalities involved. Now, under the revised wording, "by the councils of a majority of such municipalities," if two municipalities are involved, then both of them would have to pass the necessary resolution. But then, according to the textbooks, "a majority" includes the whole, so if we pass this amendment in the form suggested by the Department of Justice, in the cases where you have two municipalities you would have to have both of them pass a confirmatory resolution. If there were three, you would have to have two of them do so.

Senator PEARSON: Individually, they would have to pass it?

The CHAIRMAN: They would have to agree to the commission in which they were concerned coming under the new act. May I suggest that some honourable senator move the amending section?

Senator CROLL: I so move.

The CHAIRMAN: Senator Croll moves it. Is there any discussion on it? It is purely a matter of verbiage. I am glad to see the Minister of Transport here. I don't think the minister will be likely to question a decision by the Department of Justice.

Senator KINLEY: How has the committee power to amend it now? I thought this was taken care of in committee the other day when I understand we had two amendments.

The CHAIRMAN: They were brought in after lunch in quite a hurry. There is no change of substance of any kind.

Is the amendment agreed to?

Hon. SENATORS: Agreed.

The CHAIRMAN: Shall I bring in the committee's report this afternoon with the section as amended.

Hon. SENATORS: Agreed.

The committee thereupon concluded its consideration of the bill.



Second Session—Twenty-sixth Parliament

1964

THE SENATE OF CANADA

PROCEEDINGS

OF THE

STANDING COMMITTEE ON

TRANSPORT AND COMMUNICATIONS

To whom was referred the

Bill S-7, intituled: An Act to amend the Canada Shipping Act.

The Honourable A. K. HUGESSEN, *Chairman.*

TUESDAY, MAY 5, 1964

No. 1

WITNESSES:

The Honourable J. W. Pickersgill, Minister of Transport; Mr. R. J. Baldwin, Deputy Minister of Transport; Capt. W. S. G. Morrison, Superintendent of Nautical Examinations, Department of Transport.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1964

THE STANDING COMMITTEE
on
TRANSPORT AND COMMUNICATIONS

The Honourable

ADRIAN K. HUGESSEN,

Chairman

The Honourable Senators

Baird,	Macdonald (<i>Brantford</i>),
Beaubien (<i>Provencher</i>),	McCutcheon,
Bouffard,	McGrand,
Bradley,	McKeen,
Buchanan,	McLean,
Connolly (<i>Halifax North</i>),	Methot,
Croll,	Molson,
Dessureault,	Monette,
Dupuis,	Paterson,
Farris,	Pearson,
Gelinas,	Phillips,
Fournier (<i>Madawaska-Restigouche</i>),	Power,
Gershaw,	Quart,
Gouin,	Reid,
Haig,	Robertson (<i>Shelburne</i>),
Hayden,	Roebuck,
Hollett,	Smith (<i>Kamloops</i>),
Horner,	Smith (<i>Queens-Shelburne</i>),
Hugessen,	Stambaugh,
Isnor,	Taylor (<i>Westmorland</i>),
Jodoin,	Thorvaldson,
Kinley,	Veniot,
Lambert,	Vien,
Lang,	Welch,
Lefrançois,	Woodrow—(50).

Ex officio members

Brooks,
Connolly (*Ottawa West*).

(Quorum 9)

ORDER OF REFERENCE

Extract from the Minutes of the Proceedings of the Senate, Wednesday, March 18th, 1964.

"Pursuant to the Order of the Day, the Senate resumed the debate on the motion of the Honourable Senator Bouffard, seconded by the Honourable Senator Beaubien (Provencher), for second reading of the Bill S-7, intituled: "An Act to amend the Canada Shipping Act".

After debate, and—

The question being put on the motion, it was—
Resolved in the affirmative.

The Bill was then read the second time.

The Honourable Senator Bouffard moved, seconded by the Honourable Senator Gouin, that the Bill be referred to the Standing Committee on Transport and Communications.

The question being put on the motion, it was—
Resolved in the affirmative."

J. F. MacNEILL,
Clerk of the Senate,

MINUTES OF PROCEEDINGS

TUESDAY, May 5th, 1964.

Pursuant to adjournment and notice the Standing Committee on Transport and Communications met this day at 10.40 a.m.

Present: The Honourable Senators Hugessen (*Chairman*), Baird, Brooks, Buchanan, Connolly (*Ottawa West*), Croll, Fournier (*Madawaska-Restigouche*), Gershaw, Gouin, Haig, Hollett, Isnor, Kinley, Lambert, Lefrancois, McGrand, Méthot, Pearson, Power, Quart, Reid, Smith (*Kamloops*), Smith (*Queens-Shelburne*), Stambaugh, Thorvaldson, Veniot and Woodrow.

In attendance: Mr. E. Russell Hopkins, Law Clerk and Parliamentary Counsel.

On Motion of the Honourable Senator Baird it was RESOLVED to report recommending that authority be granted for the printing of 800 copies in English and 300 copies in French of the proceedings of the Committee on Bill S-7.

Bill S-7, intituled: "An Act to amend the Canada Shipping Act", was explained to the Committee by the Minister and Officials of the Department of Transport.

The following witnesses were heard:

The Honourable J. W. Pickersgill, Minister of Transport.

Mr. R. J. Baldwin, Deputy Minister of Transport.

Capt. W. S. G. Morrison, Superintendent of Nautical Examination, Department of Transport.

At 12.35 p.m. the Committee adjourned until Thursday, May 21, at 10.00 a.m.

ATTEST:

F. A. Jackson,
Clerk of the Committee.

THE SENATE

THE STANDING COMMITTEE ON TRANSPORT AND COMMUNICATIONS

EVIDENCE

Ottawa, TUESDAY, May 5, 1964.

The Standing Committee on Transport and Communications to which was referred Bill S-7, an Act to amend the Canada Shipping Act, met this day at 10:30 a.m.

Senator A. K. HUGESSEN (*Chairman*), in the Chair.

The CHAIRMAN: Honourable senators, we have our quorum, and we have now before us for consideration Bill S-7, an Act to amend the Canada Shipping Act.

The committee agreed that a verbatim report be made of the committee's proceedings on the bill.

The committee agreed to report recommending authority be granted for the printing of 800 copies in English and 300 copies in French of the committee's proceedings on the bill.

The CHAIRMAN: As I have said, we now have to deal with Bill S-7, an Act to amend the Canada Shipping Act. In cases where an important act of this kind is being amended, I think it is very useful for members of the committee to have before them the text of the act which it is proposed to amend so that they can compare the act with the proposed amendments. I therefore tried yesterday to get the members of the committee copies of the Canada Shipping Act in its present form so that they could have them when they considered the proposed amendments. I am told these are very, very hard to come by, which is rather surprising. How many of the copies have we got?

The CLERK OF THE COMMITTEE: Fifteen.

The CHAIRMAN: Are they available for distribution?

The CLERK OF THE COMMITTEE: Yes.

The CHAIRMAN: I am informed that these are the only copies of the Canada Shipping Act, in its present form, available. If honourable senators take them, please be sure to keep them and have them available for future meetings of the committee. I am sure honourable senators will recall that this bill was explained on second reading by Senator Bouffard, and his remarks have been reported in the *Debates of the Senate* of March 12.

The purpose of this meeting, as we agreed upon at our last meeting, is to get explanations from the officials of the department with respect to this bill, before we attempt to hear any evidence from outside interests. There are many outside interests who wish to be heard. I was not aware that the minister was going to be here this morning, but I am very glad to see him.

Do you wish to give any explanation to us, Mr. Minister, or would you like to have the departmental officials deal with it.

Hon. J. W. Pickersgill, *Minister of Transport*: I would like to do whatever the senators would like. I have rather a summary explanation of the main points, which I would be glad to give. However I don't think I will be very competent to give the technical explanations, not being a lawyer, and perhaps not having applied my mind to the matter in the way I intend to do before it ap-

pears in our house. I would much rather have the officials deal with the technical aspects. I could comment very generally on the bill and what it is seeking to do, in a general way, unless this would be duplicating what Senator Bouffard has done earlier.

The CHAIRMAN: I think we would be glad to hear the minister. It is nearly two months since Senator Bouffard spoke to us about this. Is the committee willing to hear the minister?

Hon. SENATORS: Agreed.

Hon. Mr. PICKERSGILL: Dealing with the bill, I do not think one could really say that there is a single principle in these amendments at all. I am not suggesting it is unprincipled. In fact I was rather puzzled after going over it myself as to what I would say in the House of Commons if I was asked what the principle of the bill was. It deals with several topics, not very closely related to each other, but they all relate to shipping. I think one can say in a broad way that the principle of the bill is to improve the Canada Shipping Act in a number of particulars. Perhaps I can indicate what they are.

In 1960 an international conference was held for the purpose of revising the International Convention for the Safety of Life at Sea. I may say this is something which we in Canada and other advanced countries should always welcome, because some of the competition we face on the high seas is from countries which do not pay the same attention to safety of life as we do in order to keep down their economic costs, perhaps, at the cost of human life. We have an economic interest, or at least our shipping people have an economic interest in seeing that the convention is adhered to by as many countries as possible. We sent a large delegation to that convention, and there were a number of changes made in the convention as a result of our intervention which are all incorporated in this bill. But the new convention cannot be brought into force until it is accepted by a specified number of countries. My understanding is that we are just about at the point where enough countries will have acted and that it will be possible for it to come into force.

Following our usual practice we do not accept these things unless we are sure our legislative body is willing to do so. We would not, I think, give a final decision until we were sure that Parliament had approved our doing so, and that is one of the purposes of this legislation. As I have said, I think it will be quite advantageous to our shipping interests.

I don't think I will go into detail about that because I am sure you will wish to examine the matters of detail with the officials, and therefore I am going to go right on to another subject, which is dealt with in clause 2 of the bill.

The CHAIRMAN: Before you leave that, Mr. Minister, may I say that I see from Senator Bouffard's speech that these sections of the bill deal with this new convention—that is, sections 6 to 27 inclusive.

Hon. Mr. PICKERSGILL: That is right.

The CHAIRMAN: Would it be too much to ask you whether you think there is likely to be any opposition to those sections?

Hon. Mr. PICKERSGILL: To the best of my knowledge I have heard of none, but perhaps the officials might be able to clarify that. I think all Canadian interests are satisfied, since this relates to navigation on the high seas. Since these are standards that we now maintain ourselves it is entirely in our interests to have other countries do the same. There is nothing that I could usefully add. I have not the technical knowledge to add very much beyond that.

Perhaps I might make just a reference to clause 2 which deals with the licensing of small vessels that are not required to be registered. This is a rather anomalous part of the Canada Shipping Act because navigation under the Bri-

tish North America Act is exclusively within the jurisdiction of Parliament. We find ourselves the only body which has the legislative power to lay down regulations about even the smallest type of boats. It is quite obvious that many of these things would be much better regulated by local authorities in the light of local interests and concern. What we are suggesting in this bill is that Parliament should empower the Department of Transport or the Governor in Council, as the case may be, to get suitable provincial and local agencies to act as agents. We cannot delegate our power, but we can delegate the administration of certain responsibilities to people who would be far more competent to do it than federal bureaucrats, and who could do it while going about their other activities at much less cost, and much more agreeably to the local population.

Anyone who goes to summer resorts will realize there is the problem of noise. I may say that I am not an enthusiast for these putt-putts, and I think that some reasonable control of them would be desirable, but I do not think it is a very suitable function for the Department of Transport to be carrying on directly. Perhaps that is all I need say about that section.

Clause 2—

Senator ISNOR: Would you make an exception to that in so far as the ports which have branches of the Department of Transport established at them are concerned?

Hon. Mr. PICKERSGILL: Senator Isnor is probably thinking of the large ports where small boats operate. There, of course, we would not want to delegate to anybody else the policing function with respect to small boats and small vessels. I am thinking of places like Halifax, for example, where the Department of Transport would not want to delegate its power to anyone but the National Harbours Board, because there small boats might endanger what we usually think of as the navigation itself of commercial vessels.

I am thinking of places like the Lake of the Woods where there is practically no commercial traffic at all. I suppose the logging company for which I worked about 40 years ago still has a few vessels on the lake, but for all practical purposes most of the traffic on the Lake of the Woods is pleasure traffic, with which the Department of Transport is really not very well equipped to deal.

Perhaps I could go on to clause 3. This clause is to require large fishing vessels to be in the charge of certificated masters and mates. I am informed that representatives of the fishing industry have been consulted over a period of years in this matter, and there is a general agreement to a move in the direction of higher standards of competence and certification of fishing vessels. It is thought to be very desirable. While there has been very extensive consultation with groups representing the fishing industry on the standards that should be required of persons in charge of fishing vessels there are still differences of opinion which I am sure honourable senators will hear at a later stage of their deliberations. For this reason we do not propose in the bill as it is now drafted that this clause should go into effect on the passage of the bill, but that it should be brought into effect on a date to be proclaimed by the Governor in Council. This is in order to make sure that there is plenty of opportunity for further consultation with a view to reconciling any differences that may exist or develop. I may say that I know that Senator Kinley, Senator Hollett, and some other honourable senators probably will be able to assist the committee a great deal themselves on this matter.

Senator HOLLETT: Do I understand from this section that any fishing vessel of over 25 tons going, if you like, from Twillingate to the Labrador will have to have a certificated master and mate?

Hon. Mr. PICKERSGILL: I understand that anything we propose with respect to fishing vessels in this legislation will not apply to any vessel now operating, or to the masters or other officers of any vessel now operating. It would only apply to new vessels going into the business.

Senator HOLLETT: But what have new or old vessels got to do with it? I think you know as well as I do, Mr. Minister, that most of these masters going to Labrador have ships of over 25 tons, and they can ill afford at this stage to go to school and learn.

Hon. Mr. PICKERSGILL: That is precisely why I say they will not apply to them at all. This clause will apply only to new entries. It will not apply to anybody who is now in the fishing business and who has a vessel.

Senator HOLLETT: I really wish to point out the danger there.

Hon. Mr. PICKERSGILL: Yes, there would have been a danger if it had not been completely dealt with in the bill by exception. After all, I know some of these masters very well myself, and I would far rather go to sea with them than with somebody just out of school. I can tell you that. At the same time I do think that to let young fellows go into the business without adequate training, when the training facilities now exist, would be a mistake. That is really why we want to be absolutely sure that we are not going to penalize in any manner anybody who is now making his living in this way. It affects my constituency probably as much as any constituency in Canada.

Senator BAIRD: Oh, definitely.

Hon. Mr. PICKERSGILL: I can assure honourable senators I would be exceedingly sensitive about this.

The CHAIRMAN: Which provision of the bill limits its application to new vessels?

Hon. Mr. PICKERSGILL: Perhaps Mr. Baldwin can assist me here. It does not deal with the vessels. It deals with the masters and mates. It does not apply to a person who is now a master or mate engaged in the fishing industry. It only applies to future entries.

The CHAIRMAN: But in what clause of the bill is that?

Senator KINLEY: A vessel of 25 tons is a very small vessel.

Hon. Mr. PICKERSGILL: Yes. This is a matter which the committee should give fairly close attention to.

Senator KINLEY: Should it not be 150 tons?

Hon. Mr. PICKERSGILL: I understand from my officials that they already have some amendments to propose in this matter.

Senator KINLEY: To this committee?

Hon. Mr. PICKERSGILL: Yes, and I might say that I personally would become the assistance of this committee in getting this matter into good shape. I am not at all satisfied that we have considered all its aspects. As the minister of Transport I want to say right here and now that we want to be absolutely sure we do not do anything which will in any way affect or jeopardize the position of those now engaged in the industry.

The CHAIRMAN: That is what I was thinking of. I did not see anything in the bill itself.

Mr. J. R. Baldwin, *Deputy Minister of Transport*: Clause 5 deals with the same subject, sir, and has to be taken really in conjunction with clause 3. In clause 5 you have the proposed power of the Governor in Council to establish the various procedures and standards that will apply in matters of certification. It was in accordance with the powers in this clause that we proposed to establish the levels and procedures which would protect existing persons in

the industry. It is in this connection that it is necessary that a further amendment be introduced to ensure—

Hon. Mr. PICKERSGILL: I would go further than Mr. Baldwin and say that I am very anxious an amendment should be made to make it very clear; that it should not be left to the Governor in Council, but that the amendment should be made by Parliament.

Senator KINLEY: That will not be by order in council.

Hon. Mr. PICKERSGILL: No, that should be done by Parliament.

Senator HOLLETT: I am speaking now for Newfoundland and not for any other part of Canada. I do know our fishermen. The acceptability or otherwise of clause 3 rests wholly and solely on the regulations which the Governor in Council may make. If we knew the regulations, perhaps we could understand this.

Hon. Mr. PICKERSGILL: I might not always be Minister of Transport, and I would not be satisfied to have the Governor in Council have power to make regulations which would adversely affect anyone now in the business.

Senator KINLEY: I know that.

Hon. Mr. PICKERSGILL: I want to make that perfectly clear and therefore I think the act should spell it out.

Senator PEARSON: If clauses were put in authorizing the Governor in Council to make regulations later on, what use is the bill before us now?

Hon. Mr. PICKERSGILL: It was thought at the time the bill was drafted that—perhaps I should not say this because I was not Minister of Transport myself and I was not paying so much attention to this, and there were a great many pieces of legislation before us—the situation was adequately safeguarded. But certain representations were made to me, after the bill was given second reading by honourable senators, which led me to believe that additional safeguards are necessary, I would like to see them put in. That is one of the reasons.

I think that if this bill had been going first to our house, I would perhaps have scrutinized it a little more carefully and in detail myself; but I know with what care honourable senators look at these matters, and I had no doubt that this matter would be scrutinized by them. Also, my friend Senator Kinley had himself drawn my attention to certain of these matters. I thought that since the amendments do not bring about any changes in principle but merely put more adequate safeguards on the things we intended to do anyway, that if I indicated complete acquiescence in this—and that was the principal reason I was anxious to be here today—this would be agreeable to me and to the Government, and that honourable senators would be well able to assist in this way as a part of their legislative function.

The CHAIRMAN: I think we have this matter cleared up now. The minister says that, as a matter of principle, he is not going to apply clause 3 of the present bill to any present masters of vessels. Is that it?

Hon. Mr. PICKERSGILL: That is right.

The CHAIRMAN: It is not so provided in terms in the bill now before us. We are told that it could be provided by order in council. Since this principle has been laid down by the minister, it should be inserted in the bill itself, presumably, as an amendment to clause 3.

Mr. BALDWIN: Clause 5, sir.

The CHAIRMAN: Very well. Can we depend upon the department to produce at some stage an amendment to that effect?

Senator CONNOLLY (*Ottawa West*): Just on that point, we have quite a list of people who desire to appear here to make representations. Some of

them may be coming particularly in connection with this clause. I would just ask the clerk of the committee to keep this in mind when he is advising people about sittings at which these representations might be heard. Perhaps by that time we would have the amendment and it could be sent to them.

Hon. Mr. PICKERSGILL: I would think that the department would be able to provide it. They have done a certain amount of work already. The amendment perhaps would not be in its final form but we do not want to prejudge the issue until these representations have been heard. It would be an indication at any rate of the lines along which we would proceed, and it would probably save a lot of the time of the committee, if you tell those who are making representations that the committee was disposed to go in this direction, and then get their detailed views on the matter.

Senator HOLLETT: Has the amendment been formulated yet?

Hon. Mr. PICKERSGILL: Yes, it has.

Senator REID: May I ask a question in regard to clause 4, at the top of page 4—

- (a) if the ship is not solely employed in fishing, a third class engineer, duly certificated, and
- (b) if the ship is solely employed in fishing, a chief engineer of a motor-driven fishing vessel, duly certificated,

The CHAIRMAN: The minister has not yet started dealing with clause 4. He is dealing with clause 3 as affected by clause 5.

Senator REID: I will leave the point until later.

Senator KINLEY: The question of engineers brings up quite a problem. Why do you include the mates in this. This says "masters and mates of fishing vessels". When the bigger trawlers were put on, all the fishermen were always called second hands and they were chosen by the master, and the crew were on shares and they had to satisfy the crew and satisfy the master, and the thing had to run harmoniously.

If the master found that a second hand was not good enough, he would put him in the dory, and put someone else in as second hand. If this man comes along and flourishes a certificate and says "I am a mate" it will change the position. If you are giving a certificate to a man like that, it seems to open the field a little. All this is a matter of experience, on the face of it. Even with the certificate, if he has not that experience the conditions are such that he will not be there, because he has to make money. He is dealing with a vessel of \$2¼ million and he has to deal with men who are on shares and they will not go with him unless he is successful.

The certificate that you ask is lopsided. You ask for the rule of the road and the compass on this. Every boy knows that in the Maritimes. I was chairman of a committee we had there for 20 years. The captain now has to look after all these instruments. They have instruments which are so finely adjusted now that if they lose a rake on the banks they can go out again and find its position and pick it up. The captain is supposed to look after all these instruments. Everything is done by machinery. A fellow who comes along and says, "I have a certificate" embarrasses the situation, because he may not be fitted at all. A man who is going out on the sea now has to pass a good examination and he is a master mariner, but he does not have to do the things the fishing skipper does: look after expensive machinery, make money and know his job.

Hon. Mr. PICKERSGILL: We are not seeking to impose any employment practices on these people. All this would do is to say that new entrants into the industry would not be acceptable unless they had certain qualifications.

Senator KINLEY: This might do if you want a master and mate on a 10 ton schooner. But I think a mate is necessary on the big trawlers over 200 tons. To make mates of those who are not mates puts in a qualification I do not like.

Hon. Mr. PICKERSGILL: This is something which perhaps the committee could deal with, when someone who is competent to argue with Senator Kinley will do it, because I cannot. He knows so much more than I do.

Senator KINLEY: This measure was before us a month ago and I have forgotten the details of it. I would like to study it a little.

Hon. Mr. PICKERSGILL: Right.

Senator SMITH (*Queens-Shelburne*): I would like the minister to understand while he is here that this provision for certification of mates is going to create difficulties. I am glad Senator Kinley brought it up. If we go ahead with this legislation, even in the future, the intelligent young men coming out of high schools and getting onto scallop trawlers and shutters, will still be known as second hands. The second hand is not recognized. To my knowledge he is not paid any extra money, because this will apply to what we think of as very small vessels, about 42 feet, which includes all smaller vessels, the smaller draggers, the 90-foot scallop draggers, for instance, and they do not have any other counterpart. That is going to mean that there must be a mate available. It is going to be pretty difficult for the owner or captain of the ship to find someone whom he desires and thinks necessary to designate as a mate. Those leading hands or second hands are those who are considered by the skipper to be a little more intelligent than the rest, and in whose opinion are capable of taking over. However, such a hand may fish for a while, and go back to some other occupation. This is a point I want to impress upon the minister while he is here, and I want to ask him to have his officials look into it pretty carefully, because without dealing with certified mates, we are dealing with just a class of which there is no counterpart.

Hon. Mr. PICKERSGILL: Yes. I think this is a matter to be fully considered by the committee, when looking at the clauses of the bill in detail. I just do not really feel competent myself to discuss it.

Senator KINLEY: I think we might leave the mates alone, except on the bigger draggers.

Hon. Mr. PICKERSGILL: Yes. I have always found it wise, since I learned a little wisdom, to try to avoid getting into discussions about this when I am not thoroughly familiar with it. I admit that I am not very familiar with this subject, and that it would be better for me not to express any view, except the general view that we do not want to do anything with this legislation which is going to jeopardize the economic interest of the fishery in any way whatsoever.

Senator HOLLETT: Why the change from 150 tons to 25 tons, is there any particular reason for that?

Hon. Mr. PICKERSGILL: There again, I think that I would rather not attempt to answer that question myself, senator. I can assure honourable senators that this is not a point of principle about which the Government is concerned. This is a point on which I think there are half a dozen honourable senators who would have opinions worth a lot more than mine would be.

Senator KINLEY: We could work that out in committee.

Hon. Mr. PICKERSGILL: That is right; and I hope you will.

Senator KINLEY: With regard to engineers, too.

Hon. Mr. PICKERSGILL: Oh, quite.

Senator KINLEY: Mind you, if you have a second engineer and a second captain on a fishing vessel there is the question of being certified.

Hon. Mr. PICKERSGILL: I think I know what Senator Kinley means. Last Saturday I was flying in a plane which was being flown by a single pilot. I suddenly wondered what would happen if the pilot had a heart attack. If something went wrong, if some repair was needed, I wouldn't have the foggiest idea what to do, except to pray. I think the same applies to the modern machinery of these vessels we are talking about.

Senator KINLEY: You were in the air; but when you are on the sea and there is some indication of something wrong, if land is in sight you make for it because repairs are done in shore.

Hon. Mr. PICKERSGILL: Oh, quite. Of course, there would have been no repairs to the aircraft if the pilot had had a heart attack.

The CHAIRMAN: The minister has dealt with sections 3 and 5.

Hon. Mr. PICKERSGILL: I will turn now to clause 4.

Senator KINLEY: Some years ago this question of 150 tons came up in committee, and the committee decided we should leave it as it is.

Hon. Mr. PICKERSGILL: And they may decide that again. However, I hope they will look at it very carefully and as dispassionately as possible, because I think there are two sides to this. After all, there is a lot of technical information being given out these days, and if this new industry is to become really efficient, it is quite important that we should have not only competent people, but competently trained people. There is not the same opportunity for apprenticeship today as there was in the days when Labrador fishery was in its prime. So that I think really we will have to try to balance the two things. But I want to say again, at the risk of repeating myself *ad nauseum*, that the last thing we want to do is to jeopardize the fisheries in any way.

Senator BAIRD: In other words, our technical schools should undoubtedly be taking care of a great deal of the problem.

Hon. Mr. PICKERSGILL: Quite. Now, with regard to these tugs, I am informed—and here I am speaking without much direct knowledge—that certain types have been fitted with modern alarm devices in the engine room, with complete bridge control of the propelling machinery, and that tugboat owners want to be exempted from the requirements of carrying watch-keeping engineers when making comparatively sheltered water voyages of the inland or home-trade type. This change is proposed in view of strong representations received from coastal tugboat operators and is, in fact, a recognition of the increased safety attendant upon the fitting of modern alarm and control devices in connection with ship's machinery. This is just one phase of modernization.

The clause also provides that certain non-passenger vessels hitherto exempt from the carriage of certificated engineers shall be required to carry a third class engineer or, in the case of a fishing vessel, a chief engineer of a motor driven fishing vessel when making voyages more exposed than limited home-trade III.

These two amendments have been very carefully examined by the Steamship Inspection Service to ensure that we are in no way affecting the necessary degree of safety in operations or imposing undue hardship on the ship owner.

I do not think it is necessary for me to say any more about clause 5, because we have already discussed that in connection with clause 3, and therefore perhaps I can proceed directly to clause 28.

Clause 28(1) is to provide authority to give effect to certain amendments to the International Convention for the Prevention of Pollution of the Sea by Oil, which was made in 1954, in accordance with agreements made by a

conference of maritime nations in London in 1962. These changes extend the ocean areas in which oil discharges are prohibited, reduce the size vessels subject to convention requirements and are considered to be a useful step forward in dealing with this problem.

I think there will be universal feeling that the more we can do to end this pollution of the sea by oil, the better. I do not think any Canadian would want to see this going on to any greater extent than at present.

Senator KINLEY: There must be a penalty for that.

Hon. Mr. PICKERSGILL: Yes, of course. It is just a question of how much we can get foreigners operating off our coasts to agree. We should move ahead just as fast as they will, and that is what we are trying to do.

Clause 28(2). The purpose of the amendment is to increase to \$5,000 the maximum penalty provided for a violation of the Oil Pollution Prevention Regulations. That is consequential upon clause 28(1), and just simply increases the penalty.

Senator KINLEY: Would that endanger the small operator?

Hon. Mr. PICKERSGILL: No. I think it is precisely to get the type of people to whom a smaller fine of, say \$500, would not mean anything but just the price of dumping their oil. I cannot imagine a magistrate imposing a penalty of \$500 on a small vessel. However, some of the big ship owners think it is worth while to pay such a fine. It is just like parking your car. Some people think it is cheaper to pay the parking fine than to put their car in a parking lot. I think we can rely on the good sense of people who enforce the law in a matter of this kind; but we really do want to have effective penalties against these large ship owners.

Clause 29 deals with the payment of dues in public harbours. Under the Canada Shipping Act certain areas may be proclaimed as public harbours, and for these harbours the act also prescribes the conditions under which a ship shall or shall not pay harbour dues and stipulates the frequency of payment of these dues. The fact that these conditions are imposed by statute prevents the Governor in Council from exercising any discretion, and we feel that if the dues levied in public harbours are made the subject of regulations a more equitable assessment of charges will be possible.

As I understand it, the Governor in Council prescribes the dues, but he is not allowed to prescribe how often they shall be paid. It seems to be rather silly he should be able to do the one and not the other.

Senator KINLEY: Have you made different arrangements for the fishermen? I do not know whether or not you are going to allow the fishermen in free.

Hon. Mr. PICKERSGILL: They are free if they do not stay longer than 24 hours. There is some problem out on the west coast where fishermen use floats to tie up their boats for three or four days, or even longer. We feel it is not quite reasonable to provide wharfage for some fishermen in some parts of the country and not for others in other parts. It would be more equitable if it were not provided that in some parts it should be paid for and in others it should not be paid for. So far as the actual discharge of fish and the taking on of other cargo is concerned, there are no dues for fishermen.

Senator KINLEY: In the smaller ports, you are also charging for the public wharf?

Hon. Mr. PICKERSGILL: As a matter of fact, at the present time I am reviewing this whole problem of the administration of small public harbours. I think nobody has looked at it for a long time, and it needs very careful review. I am quite interested in this as a member of Parliament, and I am not at all satisfied with the situation at present. However, of course, it will not be affected in any way by this bill.

Clause 30 deals with the regulation of pleasure boating. I do not think I need to say anything more about it than I said of small boats generally. This is a field in which if we could find agents to operate for us—

Senator KINLEY: The provincial police, perhaps?

Hon. Mr. PICKERSGILL: Perhaps we could make agreements with some of the provincial authorities.

Senator KINLEY: There is a real danger from pleasure boating where people go swimming.

Hon. Mr. PICKERSGILL: If we could make deals with provincial governments and local authorities to do what needs to be done it would be done far better than if federal officers did it, because we just cannot afford to have federal officers do it.

The clause will provide authority for the Government to prohibit or restrict the use of specified waters by small boats where public safety is involved, or to ensure the effective use of such waters in the public interest or for the protection or convenience of the public. There are obviously certain places where these small boats would not be allowed at all, where they are a real danger to navigation and to commercial operations.

Clauses 31 to 34 concern amendments to those provisions of the act that relate to the limitation of liability of ship owners and other persons concerned with the operation of ships. I would prefer simply to leave these matters which are highly technical to the technical officers. It is outside my ken anyway.

The CHAIRMAN: These have to do with the International Convention relating to the Limitation of Liability of Owners of Seagoing Ships.

Hon. Mr. PICKERSGILL: Clause 35 will, I am sure, be regarded by most honourable senators and by most of the public as the most important section of the bill. This seeks to import a new practice into our coasting trade by restricting the Canadian coastal trade in the Great Lakes, and that portion of the St. Lawrence River which is not usually regarded as the high seas to ships of Canadian registry. I must say this is something for which, as an old-fashioned Liberal free-trader, I had a somewhat limited enthusiasm. But there are certain considerations which have helped me to take the view that this is not an unreasonable provision. I do think it would be unreasonable and would be greatly resented if it were applied to all the Atlantic coast and particularly Newfoundland. But it is not going to be. It is only going to be applied west of Anticosti, without defining it more particularly as it is defined in the act.

There are, of course, some rather compelling reasons why it should be applied west of Anticosti, when one compares the practice of Canada with the practice of other countries.

Senator HOLLETT: What is the present situation?

Hon. Mr. PICKERSGILL: The present situation is that it is limited at the present time to ships on British registry. We have the consent of whatever this organization is called, under the Commonwealth shipping Agreement to restrict it. One of the reasons we have done this is that some very old ships were being put on Bermudian registry to get into this trade, ships which we would not allow under Canadian registry to ply this trade at all. It was felt that if we were to have any coasting trade and any standards, labour standards and so on, this kind of competition was what Mr. Fielding would have called "dumping" in the days when he invented that very important principle which made it possible for us to have a relatively liberal attitude to trade. It was on that basis as much as anything else that I felt this was not an unreasonable provision to propose at this time.

The CHAIRMAN: Surely, Mr. Minister, you could prevent unseaworthy ships operating in the Great Lakes?

Hon. Mr. PICKERSGILL: Yes, unseaworthy ships, but we would perhaps find it difficult, if it is not illegal for shipping under registry of some other country, to make the kind of investigations we would in the case of our own ships. It is just not precisely unseaworthiness. One of the simple devices we use is to forbid ships over a certain age from being put on Canadian registry, because we feel the risk of them being unseaworthy is rather great. We feel that it is undesirable to keep them in this kind of trade, and that it would be undercutting laws of our own if we permitted some of the practices which have shown some signs of developing in recent times.

Senator PEARSON: Mr. Minister, in regard to the Port of Churchill or to Hudson Bay, in particular, would only Canadian vessels be allowed to ship from there to points in the St. Lawrence River?

Hon. Mr. PICKERSGILL: No. British ships will not be prevented from carrying goods from Newfoundland or Nova Scotia up the St. Lawrence and into the Lakes. They will be prevented from coasting west of Anticosti, between one Canadian port and another west of Anticosti.

Senator KINLEY: Not a Canadian ship?

Hon. Mr. PICKERSGILL: A British ship will be prevented.

Senator KINLEY: A Canadian ship has free access both ways?

Hon. Mr. PICKERSGILL: Yes, a Canadian ship has access anyway; but a British ship which can now coast, say, between Baie Comeau and Hamilton, or between Seven Islands and Hamilton, will not be allowed to do so in the future. That will be reserved for Canadian ships.

Senator HOLLETT: At the present time are American ships allowed to engage in coastal trade?

Hon. Mr. PICKERSGILL: Not in Canada. No ship that we call a foreign ship is allowed to do so; only ships that are on Commonwealth registry. But the changes in Commonwealth registry itself are partly responsible for our taking this attitude. Some of these countries that are in the Commonwealth conference, or whatever it is called, are pretty casual as to what kind of ships they allow to go into the trade. Some very old American ships have been acquired and put into this trade, and it is well that some steps should be taken to stop it.

Senator HAIG: Does this mean that grain being transported in boats from Fort William down to, say, the eastern end of the lake has to be transported in Canadian ships?

Hon. Mr. PICKERSGILL: Yes, that will be the case in future. Now they can be Commonwealth ships.

Senator HAIG: But a foreign registered ship can take grain from Fort William across the sea.

Hon. Mr. PICKERSGILL: Yes, and I think a foreign ship could take grain from Fort William to Buffalo, unless the Americans have some prohibition. There is no Canadian prohibition. But such a ship could not take grain from Fort William to Port Colborne because both ports are in Canada.

Senator ISNOR: Were representations made by any outside bodies or organizations in connection with this?

Hon. Mr. PICKERSGILL: Canadian shipbuilders and shippers were naturally in favour of this. This was considered by the Spence Commission. At the time the Royal Commission was appointed, Mr. Justice Spence, now of the Supreme Court, considered this question but did not recommend any restriction. However, at that time the only ships plying this trade besides Canadian ships were British ships under United Kingdom registry; so conditions were not too

dissimilar, and it was not felt that they created any problem. The kind of problem I would suggest arises from certain registries which were established in, for example, the West Indies, and have much laxer regulations than we have.

Senator BAIRD: Will it not restrict our trade?

Hon. Mr. PICKERSGILL: I don't believe so.

Mr. BALDWIN: There were some 10 to 12 ships, old United States ships, which were put on British registry prior to the original government announcement in 1961, and perhaps five or six since of them were engaged in this trade. The old U.S. lakers were built from 1888 to 1905. They affect a very small proportion of the trade being moved at the present time. I have some detailed information on this which I can give later.

Hon. Mr. PICKERSGILL: It seems to me it would not be consistent with the usual practice that we have had in making our rules and legislating to impose these rules upon those vessels that were engaged in the traffic before Mr. Balcer made the original announcements. They were in the traffic and they are still in the traffic and so long as they satisfy all our other requirements, and all the requirements of our law, I would be very reluctant to legislate them out of existence. This is something that would be rather repugnant to me.

Senator KINLEY: This can be done by ministerial discretion?

Hon. Mr. PICKERSGILL: There is a discretion in the Governor in Council to exempt those vessels. There are some vessels that came in after the announcement, but they are few. If the legislation is left in its present form it would be competent to the Governor in Council to exempt them. But they would not be prepared to recommend exemption of any ship which may enter into this trade from now on, and which had not been in it before now or prior to this legislation. They would not recommend exemption of any ship entering the trade from the date this bill was introduced into the Senate, for they would have had ample warning of our intentions. But I don't believe any have entered into the trade since then; my best advice is that none have done so.

Senator KINLEY: Mr. Chairman, the report we heard in the house the other day was made about seven years ago, before the existence of the St. Lawrence Seaway. Things have changed. Western people have the right to load grain from the west and send it all over the world. Before the St. Lawrence Seaway there was a degree of protection on the lakes, and I think that coastal trade does deserve protection, and that what you have done is very good. I would not like to see it apply to Newfoundland.

Hon. Mr. PICKERSGILL: We want to keep Newfoundland in Confederation, you know. I don't want to be the minister to apply this to Newfoundland, but we are not recommending it anywhere east of Anticosti at the present time. I have no doubt in other places there will be quite a difference in views about this.

Senator KINLEY: Under the Washington treaty we had some of the regiments from the United States being carried to different ports and back again, and transportation was also provided. That was very good.

Hon. Mr. PICKERSGILL: Of course, anything that went from one Canadian port to another Canadian port would not be affected.

Senator KINLEY: Reciprocity in coastal trade would be a splendid thing.

Hon. Mr. PICKERSGILL: If we could get that we would knock the spots off them.

Senator HAIG: Can Canadian ships take goods from Canadian ports to American ports?

Hon. Mr. PICKERSGILL: That is foreign trade, but our ships cannot engage in American coastal trade any more than they can ours.

Senator KINLEY: Why did they fine us \$2,000 for taking two passengers from Milwaukee to Chicago? They gave it back, but why did they fine us in the first place?

Hon. Mr. PICKERSGILL: I doubt very much if there is much more I could usefully add.

The CHAIRMAN: I am obliged to you, Mr. Minister.

Hon. Mr. PICKERSGILL: If honourable senators have any further questions—I am about 40 minutes late for another engagement already.

The CHAIRMAN: Shall we excuse the minister?

Hon. SENATORS: Agreed.

Hon. Mr. PICKERSGILL: I thank the Senate for their polite reception. I was accused of contempt in my own house, but I hope I will not be accused of the same thing here.

The CHAIRMAN: Honourable senators, we have as witnesses, in addition to the minister, Mr. Baldwin, the Deputy Minister of Transport, Mr. R. R. Macgillivray, Assistant Counsel; Mr. Alan Cumyn, Director, Marine Regulations; Mr. J. H. W. Cavey, Chief of Harbours and Property, and Captain W. S. G. Morrison, Superintendent of Nautical Examinations, all of the Department of Transport.

There are other gentlemen present who can answer questions if asked, and they are Mr. J. G. Hutchison, Chief of the Protection Branch, Department of Fisheries; Mr. G. G. M. Guthrie, Supervisor of the Registry of Shipping, Department of Transport; Mr. H. O. Buchanan, Steamship Inspection Service; Mr. A. G. E. Argue, of the Radio Regulations Division of the Department of Transport; Mr. C. D. Kenny, also of the Radio Regulations Division; and Mr. J. McL. Hendry, Solicitor of the Department of Transport.

How do honourable senators suggest we proceed with this bill? Should we ask the officials for detailed explanations of the sections as we come to them?

Hon. SENATORS: Agreed.

The CHAIRMAN: Honourable senators will remember from Senator Bouffard's speech that parts of this bill deal with certain international conventions. There are the International Convention for the Safety of Life at Sea, the International Convention for the Prevention of the Pollution of the Sea by Oil, the International Convention relating to the Limitation of Liability on Owners of Sea-going Ships, and the British Commonwealth Shipping Agreement of 1931 and the Merchant Shipping Agreement of 1961.

Various sections of this bill deal with these various conventions. Should we take up these conventions one by one and ask the officials what sections of the bill deal with a particular convention, and ask them to explain them to us as we go along?

Senator SMITH (*Queens-Shelburne*): Will that give us ample time this morning to get back to further elucidation of sections 3 and 4? Those are controversial and are the ones on which some people from the west coast are anxious to make representations. I am wondering if we could get a full explanation of them on our record so that record can reach those people. There may be others from the east coast.

The CHAIRMAN: There is something in what you say. If we are going to have a meeting later on to hear other representations perhaps we might deal with the contentious sections and get on record any amendments that the department proposes and any explanation that its representatives have to give. We can then have this record printed and circulated amongst the people who intend making representations. It may mean that some of them do not need to come. Perhaps that would be advisable.

Senator HOLLETT: Agreed.

The CHAIRMAN: So, we will forget about the conventions for the moment and go on to the contentious sections of the bill which are sections 3 and 5 and section 35 which the minister has just discussed. Shall we deal with those in that order? Those are, I think, the contentious sections, are they not, Mr. Baldwin?

Mr. BALDWIN: I believe so, sir. Sections 3 and 4 will be contentious in the sense that you will get varying views depending on whether it is the Marine Engineers Union or the Tug Boat Operators who will give evidence. However, it is in a technical sense that you will receive differing views.

The CHAIRMAN: So, we will deal with sections 3, 5 and 35 in that order, these being what we understand to be the contentious sections. We will get the explanation from the departmental officials in so far as we require it in connection with these sections.

Section 2 is the section dealing with the registration of small vessels, licences, and so forth. Who do you suggest will deal with section 2, Mr. Baldwin?

Mr. BALDWIN: I could speak on section 2 myself, Mr. Chairman, and also on section 30 which should be read in conjunction with it. Those are the two sections which deal with the matter of small boat regulations. The basic problem in the small boat field, as explained by the minister, has been the question of what degree of regulation should be imposed in the pleasure boat field due to the recent and very rapid growth of pleasure boating.

We do have authority under the act as it now stands for the licensing of small boats. This is not registration; it is a simplified form of licensing whereby a licence is obtained from the local customs officer, and it applies to vessels of ten horsepower or over. This system is in effect, but it is not a very effective system, if I may so describe it, because it is more of a routine of getting some identification on the boat so that the mounted police or other police can recognize it.

We have authority in the act to license operators of small boats, but we have never used this authority because it presents a large and complicated administrative problem. As indicated by the minister, we have reservations about the desirability of the federal Government's getting into this on the huge scale necessary if it is to be effective. We have been doing what we can in the way of education, and there is control in the same way as there is control of dangerous driving under the Criminal Code.

Various conferences with the boating interests and the provinces have led us to the conclusion, even though provincial views are not unanimous, that if there are to be further effective measures taken in regard to the regulation of the small boat field it would be much better if this were taken at the provincial and/or local level rather than by and large the federal machine. Some provinces have reservations; others have indicated that this is something they may wish to consider in a limited sense.

We have in our operator licensing section of the act the authority that would allow us to make use of the provinces as our agents in this connection. We do not in the act have this authority with regard to the licensing of small boats as distinct from the operators, and the most important part of section 2

is to make it possible for us to have comprehensive authority with regard to the licensing of small boats, and the authority to make use of other than federal Government personnel as agents if a scheme is to be extended in this field. The idea is that we would not wish to extend in this field unless a province finds it possible to set up the machinery to act as our agents in this regard, and we would really act on their advice as to whether they think action should be taken.

Parallel to this, in section 30 there are certain powers with regard to restriction of the use of small boats in local waters. We found in our discussions with the provinces over the last two or three years that it is impossible to set down a hard and fast rule—this is in their opinion and in ours—regarding the waters in which you might want to restrict the use of outboard pleasure craft. Conditions vary a great deal from point to point. As Senator Kinley mentioned, in some areas small craft may be dangerous to swimmers. In some other areas we have found that the provincial wild life and fishing conservation authorities feel there is some merit in placing some restriction on the use of small boats in the interests of wild life conservation. In other areas it is felt there may be a community interest in a locality where the majority of the community themselves feel they would like some restriction placed on the use of small boats.

So, clause 30 has been put in to give the Government some authority in regard to imposing restrictions, in an area sense, on the use of these very small pleasure craft. Here, again, the intent is that this would be exercised only on provincial and/or local or municipal request coming forward through provincial sources. That is a broad description of the intent of the two clauses.

Senator PEARSON: What about pleasure vessels in commercial lanes interfering with shipping?

Mr. BALDWIN: This would come under the general provisions regarding traffic control that we have. This is something that we would feel we would keep control over because this is where our interest lies, namely, in the main commercial lanes of traffic.

Senator BAIRD: In other words, you just want the machinery set up and as far as the exercise of it is concerned it is solely under provincial jurisdiction, is that right?

Mr. BALDWIN: Yes.

Senator KINLEY: These pleasure craft are capable of high speeds today, and young people get these boats and drive them at excessive speed. They want to show off before an audience and that makes it very dangerous. They go very quickly, even through the docks.

Senator BAIRD: That comes under another field altogether.

Senator KINLEY: No, that is the kind of boat.

Senator BAIRD: That comes under speed restrictions.

Mr. BALDWIN: We have provisions in the Criminal Code with regard to that. They used to be in the Shipping Act.

Senator POWER: I understand that this clause 30 would be brought into effect only if the local people or provincial people asked for it.

Mr. BALDWIN: That is the basic intent. There might be a case where there would be a strong federal case in that field, but we would expect to be guided by provincial or local views with regard to this, as the position varies from place to place regarding the clause.

Senator POWER: With regard to the section?

Mr. BALDWIN: There may be a case where there is a federal interest in doing this also.

Senator SMITH (*Queens-Shelburne*): Mr. Baldwin, does your department deal directly with the municipality? You would refer the matter to the provincial authority, would you not?

Mr. BALDWIN: This would be our intent.

Senator KINLEY: I suppose there could be no accusation unless the attorney general of the province so decided.

Senator BAIRD: In other words, you would bring it to his notice.

Mr. BALDWIN: This clause was, if not accepted unanimously, at least very strongly supported by the majority of the provinces the last time we met with them.

The CHAIRMAN: Is there any further question on clauses 2 and 30?

We come now to clause 3 which has received some comment. That is the reduction from 150 tons to 25 tons with respect to fishing boats.

Senator HOLLETT: To start the argument, I would like to move that clause 3 be deleted from the bill.

Senator BAIRD: You have accomplished it, if you delete it.

Senator HOLLETT: In section 114, there is a section (b) which says:

ships solely employed in fishing, and other ships principally engaged in fishing not exceeding one hundred and fifty tons gross tonnage, not carrying passengers, and employed on the waters within the area within which a home-trade voyage may be made,

Anything over 150 tons in that category must have the necessary licensed master registered—the certified master and mate. That has been going on for quite a number of years, I think right back to 1936 or perhaps before that. I am very much afraid that unless the minister can give us some reason for the control, this is going to do damage to our fisheries from Newfoundland to Labrador and from Newfoundland to places inshore where we have ships of much greater size. They would easily be up to 25, 100 or 150 tons. They are operating now under non-certified masters and mates.

It is true that regulations are going to be made, but I am wondering what the effect will be upon our coastal fishing. As you know, our fishing today is more or less in a crippled condition and anything which is brought in to make it appear impossible for the men to make a decent living at fishing is not going to do any good.

The CHAIRMAN: I wonder if it would not help us if we had before us the proposed amendment to clause 5, which apparently is designed to cover the question of principle which the minister laid down this morning, that this is not going to apply to any existing master of a vessel.

Senator HOLLETT: Then I withdraw the motion, in that case.

The CHAIRMAN: Do you not think it would be better if we had that before us.

Senator BAIRD: Yes, the minister is emphatic on that one point.

Senator KINLEY: What effect would it have in regard to the St. Lawrence if these small vessels of 25 tons came under these regulations?

Senator SMITH (*Queens-Shelburne*): I would be very interested to hear what the witness has to say in clarification of the intentions of the department. Perhaps it would be possible to put on record the amendment to the legislation, to which the minister referred a little while ago. Then perhaps some of our statements would not be necessary. In the early stages of this legislation, some of us were quite concerned about this, but I am becoming less concerned all the time and perhaps would be even less concerned if we had an elucidation of what is intended.

The CHAIRMAN: I have been given a draft of the new section 116B, to be inserted after 116A. Perhaps I might read it to the committee and then we shall have it on the record in our minutes. It says:

116B. (1) Every person who is a Canadian citizen and every person who is a landed immigrant within the meaning of the Immigration Act is, on application to the Minister, entitled to

(a) a certificate of service as a fishing master, or

(b) a certificate of service as a fishing mate,

if within the five years preceding the date of his application and before the first day of December, 1965, he has served for one fishing season as fishing master or fishing mate, as the case may be, of a Canadian fishing vessel of over ten tons gross tonnage and is able to provide evidence satisfactory to the Minister as to his experience and ability.

(2) A certificate issued to a landed immigrant pursuant to subsection (1) shall be valid for such period as the Minister may fix.

(3) In this section and section 116A, "fishing vessel" includes a vessel used in the transferring to shore of the catch of other vessels.

Mr. Morrison, perhaps you would explain to us the effect of this in relation to clause 3 and how it brings into effect the minister's statement of policy this morning. You were here then?

Mr. W. S. G. Morrison, *Superintendent of Nautical Examinations Department of Transport*: Yes, I was here. The effect of this proposed amendment is that, instead of doing this by regulation, it will now appear in the act. Those who are at present sailing as fishing master or fishing mate of various fishing vessels would be allowed to continue in their trade without any disturbance whatever. They would be issued a certificate of service without any examination at all. The certificate would be valid for life, except in the case of a certificate issued to a landed immigrant, in which case the certificate would be valid for a suitable period so that after the expiry of that period the person concerned could make further application, and if he had become a Canadian citizen his certificate would be renewed for life without any examination.

The intention of this is so that the older generation would not be required to undergo any further training or any examination of any nature whatsoever.

The younger generation coming along, however, would be required to go through what one might term formalized training. There has been a great deal done lately towards providing fisheries training schools, and there has also been a considerable movement in some areas of the country towards increased size of fishing vessels and increased navigation equipment. It therefore seems desirable to create a special certificate for fishermen; the certificate would be valid only in the fishing vessels. This is an expressed wish of the industry itself so that they may retain the services of the men they train. The provision for requiring a certificate is set at 25 tons gross. This represents a fishing vessel of about 45 feet in length. It does vary from area to area, depending on the type of vessel, and the reason for setting it at 25 tons gross is that this is the limit which was suggested by a number of representatives of the fishing industry, at the time I went across the country to discuss, with the people concerned themselves, the various proposals which were being made. I might mention that the Fishing Vessel Owners' Association, of British Columbia, expressed a strong wish that the requirements should go right down to the smallest fishing vessel. Apparently, the reason was that they were concerned about the time they were spending assisting small

vessels getting into difficulties on the coast. Elsewhere the 25 tons limit seemed to be acceptable to everybody.

Senator HOLLETT: You say you went around the country?

Mr. MORRISON: I did, sir.

Senator HOLLETT: Did you take any evidence in Newfoundland?

Mr. MORRISON: In Newfoundland, I attended a meeting of the Newfoundland Fish Trades Association, and a representative of the Newfoundland Federation of Fishermen was present at that time.

Senator BAIRD: This was in Newfoundland?

Mr. MORRISON: In Newfoundland, sir.

Senator SMITH (*Queens-Shelburne*): What about Nova Scotia, whom did you consult there?

Mr. MORRISON: In Nova Scotia I went around to the various larger companies, such as Zwickers, National Sea Products; Booth Fisheries; Acadia Fisheries; Ritcey Brothers, and Lunenberg Sea Products.

Senator HOLLETT: I do not think you interviewed any independent fishermen who go to Labrador in their own vessels, did you? You saw people in the fishing trade who owned big trawlers?

Mr. MORRISON: Yes, sir.

Senator HOLLETT: They are not interested in the little fellows who go to Labrador. It would have been well if you had heard from some of them—and I am speaking for them.

Senator KINLEY: Why do you want to reduce the 150 tons gross tonnage to such a smaller tonnage, when the vessel is "not carrying passengers, and employed on the waters within the area within which a home-trade voyage may be made"?

Senator HAIG: That is the present section 114(1)(b).

Senator KINLEY: Yes.

Senator BAIRD: In British Columbia they want even a smaller tonnage than that.

Mr. MORRISON: Yes. The Fishing Vessel Owners' Association—and this is an association of small fishing vessel owners; not the B.C. Packers, which is a representative group of the larger companies.

Senator SMITH (*Queens-Shelburne*): I should like to hear an answer to the question; why did they chose to go down to as far as 25 tons?

Mr. MORRISON: From time to time discussions took place with the fishing industry on this particular subject. Occasionally accidents occur. On one particular occasion there was a collision with the Gertrude de Costa in Halifax harbour. During the court investigation of the matter the commissioner expressed concern at the fact that fishing vessels and vessels principally engaged in fishing were not dealt with on the same basis as other commercial vessels. In the case of other commercial vessels, a vessel of 10 tons gross or over must be provided with a certificated master. If passengers are carried, then the limit is 5 tons gross. The court drew attention to this inconsistency. As a result of this, discussions were entered into again with the fishing industry at that time, and as you mentioned, sir, it came before the Senate committee and it was turned down at that time, principally, I understand, because the regulations which would be made under the enabling legislation had not been discussed with the industry.

In 1960 the department wrote to various provincial fishing authorities and also to representatives of the industry, asking these people their opinion as to whether or not further discussion of the suggestion that there should

be certification of fishermen, would be advisable at that time. The response received indicated that there had been some change in the feeling of certain sections of the fishing industry, principally because of the increase in the size of the craft and the increase in the complexity of the equipment. Emphasis had started to be placed on formal training. A number of fisheries schools had been set up, and the industry, principally in the east coast, was concerned about the future supply of competent personnel. A large number of them feel that a fishing certificate would be helpful to this end of ensuring a supply of well trained men in the future.

Senator KINLEY: What caused the collision of which you spoke? I understand that the other vessel ran the fishing vessel down.

Mr. MORRISON: I have not read the full transcript of the evidence myself, sir.

Senator KINLEY: I can recall only one other occasion when a fishing vessel was sunk by collision. The record is excellent. I really cannot see any reason for lowering the tonnage to such small vessels. It means that if a fellow wants to carry a few goods along to Quebec, for instance, he has got to get a captain's certificate. It seems to me that is going rather too far.

Senator POWER: My recollection is that two years ago or so this question came up, and there was a storm of protest on the north shore of the St. Lawrence in the Province of Quebec. I am not too clear about it. Have these people been consulted?

Mr. MORRISON: I have been in touch and held discussions with two associations in Quebec: the Quebec United Fishermen of Montreal, and the Quebec Fish Producers' Association of Quebec City. When I discussed this matter with them in April, 1962 they were reasonably satisfied with the draft. They suggested one or two changes in the proposals and these have been incorporated in the third draft which was circulated to them. They have made no further comment on it, so we presume they are reasonably satisfied with it.

Senator POWER: My impression is that the main objection was in bringing this control down to the 150-ton vessels. I do not see any other Quebec members here, but I do know there was a devil of a row over it. I don't know that the Quebec Producers' Association would represent the type of people I have in mind, and all the boats from the St. Lawrence to Labrador.

Senator HOLLETT: Just one other word, Mr. Chairman, before I leave. The Labrador fishery is something which is entirely distinct from the fishery of the rest of Canada; it is the salt fish industry. They go to Labrador, not in 25-ton vessels but in larger vessels. They go and catch their fish, and they salt it in the hull of their vessel and bring the fish into Newfoundland and dry it and then ship it to Portugal, Spain or elsewhere. These men have been carrying on this operation all their lives, and it is them I am worried about. Are we going to destroy our Labrador fishery eventually? You have to have a bigger boat than 25 tons.

Senator SMITH (*Queens-Shelburne*): How large are they?

Senator HOLLETT: Anywhere from 40 to 100 tons, and even larger in some case. If there were some amendment which could be brought in which would save the situation as far as the Labrador fishermen are concerned, I would be content.

Senator BAIRD: The Labrador fishery has depreciated very much within the last 20 or 30 years.

Senator HOLLETT: This will finish it.

Senator BAIRD: I do not think it will require even this to finish it. I think that way of fishing will automatically die out.

Mr. MORRISON: For the purpose of clarification, before a certificated mate or second hand would be required in a fishing vessel it would need to be a very large fishing vessel indeed. The tonnage would have to be in excess of 400 tons net. That would be approximately 675 tons gross, and this is quite a large craft. Therefore, the only reason for putting in the mention of the mate's certificate is because a number of people in the industry expressed the wish to have a certificate so that a deck hand could have a step to go to before going up to master.

Senator KINLEY: How many fishing vessels have we of over 675 gross tons in Canada?

Mr. MORRISON: I am not an expert on this, but I believe there are none over 400 tons net—that is, 675 gross.

Senator KINLEY: How many?

Mr. MORRISON: There are none.

Senator KINLEY: I did not think so. They are getting bigger all the time, but on a big vessel over 200 tons there should be a mate, but it is difficult to have a mate. They choose their best man to deal with it. I suppose they would have to discharge the fellow and go to the shipping office and ship another fellow with a ticket. These fellows have their job because of their experience, and they know what they want, and they give a fellow a second hand and he is the best man they have.

Mr. MORRISON: They will still be able to do this.

Senator KINLEY: For vessels of how many tons?

Mr. MORRISON: So long as the vessel is under 400 tons net. In other words, fishing vessels would not have to have a certificated mate, but only a certificated master, by law.

Senator KINLEY: Is that what the amendment says?

Mr. MORRISON: Yes, if you refer to section 114—

Senator KINLEY: I have not seen it for a while.

Mr. MORRISON: In the present act mention is made there that the certificated mate is only required on home-trade voyages.

Senator KINLEY: That is different now. A home-trade voyage carries you to British Guiana, but does a fishing vessel, which is on the coast and knows where she is all the time, have to have a mate under this new amendment?

Mr. MORRISON: No, she does not.

Senator KINLEY: Where are you going to have the certificated mate?

Mr. MORRISON: As I was mentioning, the industry expressed the wish to have a stepping stone towards the master's certificate, and for this purpose we have put in the certificate as mate.

Senator KINLEY: What kind of a vessel?

Mr. BALDWIN: This would really be to allow second hands to try for something higher, the first step up in their training. It would be purely voluntary.

Senator KINLEY: To be a skipper or mate he has to have certain qualifications that do not go with any certificate.

Mr. BALDWIN: I agree on that. This would be towards the certificate of a master.

Senator KINLEY: You are not going to put them on fishing vessels anyway, because even the big trawlers only go 250 tons.

Senator SMITH (*Queens-Shelburne*): Do I now understand it is not the intention to require these vessels of 25 tons and up to quite a large tonnage to

have mates at all, and yet you are providing for such a qualification if they voluntarily desire to become mates, as a stepping stone—is that the position?

Mr. MORRISON: That is the position.

Mr. BALDWIN: This was requested by industry, in the consultations.

Senator SMITH (*Queens-Shelburne*): That puts a different complexion on the whole thing. We are not going to compel a long liner, 45 feet in length, to have both a certificated captain and mate in the future, not unless we change the legislation.

Mr. MORRISON: No.

The CHAIRMAN: I think senator, that section 114, as it reads now, requires, in any case, a master holding a certificate of proper grade and class. It goes on to certain designations of passenger ships or ships over 400 tons also requiring a mate. But that does not affect our small fishing vessels at all.

Senator SMITH (*Queens-Shelburne*): Not at all, and I am glad to say that now it is clear.

Senator KINLEY: Have you not put the cart before the horse? Where are your educational facilities for these fishermen?

Mr. MORRISON: With respect to Nova Scotia, there is a school in Pictou which takes in younger boys, and I understand that they are paid subsistence while there.

Senator KINLEY: That is a technical school. That takes in all kinds of technical trades, does it not?

Mr. MORRISON: I have never visited the place; I only have the information second hand. It was set up about 18 months ago, and I understood it was purely a fisheries training school.

Mr. BALDWIN: This is a new provincial setup.

Senator KINLEY: I know.

Senator SMITH (*Queens-Shelburne*): You should have another one down in Lunenburg.

Senator KINLEY: No, we do not have one down in Lunenburg. We have to pay for our men going to one—technicians, engineers and that sort of thing.

Mr. MORRISON: To continue, in addition, the provincial government of Nova Scotia has two large caravan trailers which they send around to various outports, providing engineering and navigational courses for fishermen.

Senator KINLEY: There is a Lunenburg man in charge of that. They teach these fellows how to handle their engines.

Senator SMITH (*Queens-Shelburne*): Mr. Chairman, as a reason for bringing forward this legislation the witness did refer to one disaster that occurred near Halifax. One happening like that is not sufficient to require the act to be amended. What other reasons were there? Where did they emanate from? Are they departmental suggestions brought to the attention of the industry, or has the industry been pressing the department to do this?

Mr. MORRISON: The industry has not been pressing the department, except that when we wrote and inquired as to the feeling towards this, the replies were varied. There was a variety of replies varying from one expression of the opinion that it was long overdue—that such a step was long overdue—to the other side of the coin where they felt we were perhaps rather ahead of the times. But subsequent discussion and clarification as to what we meant by certification has eased the position so far as the people who opposed the step are concerned. There is only one association which has expressed a serious reservation, and it is our hope that we will be able to smooth this over. The B. C. Fish Packers Association, whilst at first they agreed with our proposals,

have had second thoughts on one or two aspects of them, but they are mainly minor points which I think can be ironed out. The accident I referred to, of course, is not the only accident which has occurred. We have had numerous accidents reported over the years from 1950 to 1963. We had a total of 651 accidents reported in that period, and the loss of life involved was 159 lives.

Senator KINLEY: What was that period?

Mr. MORRISON: This is from 1950, sir, to 1963.

Senator SMITH (*Queens-Shelburne*): Accidents to fishing vessels?

Mr. MORRISON: Yes, we have attempted to analyse these reports, and it would appear that in 247 cases, representing 38 per cent of these accidents, the accident was due to some fault in navigation; that in 38 cases, faulty seamanship was perhaps involved—that is 6 per cent. We also found that in 66 accidents it was a case of collision, and that represents 10 per cent of these accidents. Fire was involved in 185 cases or 28 per cent of the total. That is fire or explosion.

Senator KINLEY: That is the biggest hazard they have.

Mr. MORRISON: And 18 per cent of the cases we ascribed to other causes such as the vessel being blown onto a lee shore in which case the crew could do nothing about it, or the vessel breaking adrift whilst moored and unattended, and various other nondescript causes.

Senator SMITH (*Kamloops*): What is the total again of vessels involved?

Mr. MORRISON: The total from 1950 to 1963 is 651, sir.

Senator SMITH (*Queens-Shelburne*): Thirteen years.

Mr. MORRISON: That is approximately 50 per year.

Senator SMITH (*Kamloops*): Were other vessels involved in collisions of fishing vessels?

Mr. MORRISON: These are all fishing vessels.

Senator SMITH (*Kamloops*): I am thinking of the terrific growth in and the great volume of sport fishing vessels that have caused some annoyance to the commercial fishermen out there in recent years. That has been growing very rapidly in recent years. These figures you have given us, would they be incidents due to the carelessness and inexperience and so on of sport fishermen?

Mr. MORRISON: No, sir. I think I can say that with one slight reservation, that in the case of some of the collisions there may possibly have been a pleasure vessel involved, but, as I mentioned, the collisions represented only 66 cases, or 10 per cent.

Senator KINLEY: That is what you get your certificate for, the rule of the road and some other elementary things.

Mr. MORRISON: In order to get a certificate the applicant is supposed to have had rudimentary training in the rule of the road, seamanship, navigation and fire fighting. These items were involved in approximately 82 per cent of the accidents.

Senator KINLEY: What you mean is all those things represented 82 per cent. But the fire hazard is caused by careless people.

Mr. MORRISON: But it is also hoped that the man would receive some elementary training in fire fighting.

Senator KINLEY: That is for the future.

Mr. MORRISON: Yes.

Senator KINLEY: They are getting very careful about that too. But navigation is so wrapped up in mechanical means now that they know exactly where they are by their cross bearings and by their instruments.

Mr. MORRISON: Generally speaking, sir, the instrument or navigational aid is only as good as the man behind it.

Senator KINLEY: Sometimes there are two. Lots of them duplicate it.

Mr. MORRISON: It is our hope that in training a man will be instructed in the proper use of various electronic and other aids to navigation which he will be called upon to use.

Senator KINLEY: I think it is pretty good for the captain, but I don't know where it will finish up with these mates getting certificates. Do they have to be a mate before this or what? You are getting into a large field, and you are going to give certificates to some who I think are in a doubtful class. Captains have had experience, and you can with safety give them certificates for the future, but when it comes to the second man, the mates, you get myriads of these fellows and you don't know if they will be good or not. I don't think you are improving anything by adding these mates on fishing vessels. The captain now chooses the mate and he chooses the best man he can get. If he isn't good the captain can get somebody else. But with this idea the man can say "Well, I have got a certificate."

Mr. MORRISON: That situation would not really be changed.

Senator KINLEY: The skipper now can hire the man.

Senator SMITH (*Queens-Shelburne*): This is the situation as I understand it: if a young man, who is the second hand on a small fishing vessel desires to apply, he can get a certificate if he qualifies, but it is purely voluntary. That is the situation as I understand it. I know it is getting rather late but I am still confused as to whether this thing in its present form is in the public interest. From the correspondence I have had and the contacts I had during the Easter recess, I find that those who are in the fish business and who are mostly concerned with it have to rely on the operation of large fishing vessels and some of them have said that the proposals of the Department of Transport do not go far enough. I am speaking now about Nova Scotia, by the way.

On the other hand, when I get down the line to the class of fish dealer who operates fish plants which depend for the most part on the types of vessels which will for the first time be brought under regulation so that they will eventually have to have captains and possibly mates, I find that they are not exactly opposed to it but they are a little afraid of it.

One man, who has a rather substantial part of the industry all along the south shore of Nova Scotia, said that if the regulations were not interpreted with elasticity they could ruin the industry on that particular part of the coast. I had some conversations with people in the Civil Service in Ottawa which enabled me to assure him of what the approximate intentions of the department were, and that sort of mollified him, but then he came back and said: "What good will it do if you are going to make it so easy to get in, and if you are not going to do it by examination for four or five years? If that is the case, what is the purpose of doing it at all?" He had many questions, and I am sure he would like to sit here in my place and ask them of you.

I am a little worried that we may possibly be getting down into a class of vessels that is too small when we include those of 25 tons gross. You are then considering a vessel of 40 or 45 feet in length, which would include all the Cape Islanders and other such vessels. There has been a gradual build-up to larger ships. The fishermen are getting into 95-foot boats and boats of over 100 feet. Such vessels are becoming quite numerous, and I do not think there would be any objection from any source, or from the people with whom I have contact, if these regulations did not embrace vessels as small as those of 25 tons gross.

This is creating suspicion. These people are saying: "Here is the Department of Transport telling us how to operate our fishing fleets". They say: "We have had 50 accidents a year on both coasts, but how many of them occurred in Nova Scotia, and how many were due to violent storms in which whatever qualifications a man had would be of no help to him?" Qualifications do not help you if you are driven on the shore.

I am not saying I am opposing this in its present form, but I am concerned about it.

Senator KINLEY: At one time there was a hurricane, but a certificate would not have saved those boats.

Mr. MORRISON: These are included under "other cases". We realize that nothing can be done—

Senator KINLEY: Yes, but the boats that stayed out survived. It was the boats that came in shore that did not survive.

Senator SMITH (*Queens-Shelburne*): Mr. Chairman, to complete my remarks on the record I should add that it is just the whole class of fishermen who have not been consulted directly. The representatives of the industry in Nova Scotia who are active in organizations such as the Fisheries Council of Canada, in their thinking, do not have direct representation, and perhaps I represent their thinking on this committee.

The CHAIRMAN: Honourable senators, time is getting along. We have now dealt with two of the clauses of the bill which we think will be disputed, namely, clauses 2 and 3. We have before us a proposed amendment to clause 5 which will apparently exempt any existing master or mate from the requirements of clause 3. Clause 4 deals with tugs. Is that a contentious section?

Mr. BALDWIN: Sir, in so far as the department is concerned, we have reached what we consider is a proper technical judgment, but we realize that probably the owners on the one side, and the engineers' union on the other, will both feel it is not correct, and each would like to see it moved in their own direction. This is primarily a problem on the west coast, and we understand that both groups involved wish to appear before you to give evidence. I am speaking of the B.C. Tug Owners and the National Union of Marine Engineers.

Senator KINLEY: They operate on the west coast?

Mr. BALDWIN: Primarily, yes.

The CHAIRMAN: The clerk informs me that both of these organizations have asked permission to appear before us.

Senator KINLEY: Consideration of this bill has been delayed for a long time. I think the committee should stand adjourned after this preliminary meeting until such time as there has been some study of this. I do not know what has happened now. I have forgotten.

The CHAIRMAN: The other contentious section is section 35 and that concerns limiting the right of transport on the Great Lakes as far as West Point Anticosti Island. I do not know whether the departmental officials can assist us on this because it is a matter of policy which the Government has determined upon.

I would like to ask the committee if it feels it is in a position to hear representations from public bodies, or does it wish another meeting before that in order to consider the non-contentious sections of the bill?

I am going to suggest, if we feel ready to hear public representations, that we delay hearing them for at least a fortnight. In the interim the proceedings of this meeting can be printed and published, and sent to the people who have asked to be heard together with a notice saying that the committee is going to meet. They will then have a copy of the minutes of this morning's meeting

and they will know what the thinking of the minister and the department is, and that may change their representations. It may even make it unnecessary for some of them to come here.

If it meets with the agreement of the committee I suggest that we adjourn until Thursday, May 21 at 10 o'clock.

Senator FOURNIER (*Madawaska-Restigouche*): Mr. Chairman, I move that the committee adjourn until that date.

Hon. SENATORS: Agreed.

Whereupon the committee adjourned until Thursday, May 21, 1964 at 10 a.m.



Second Session—Twenty-sixth Parliament

1964

THE SENATE OF CANADA
PROCEEDINGS
OF THE
STANDING COMMITTEE ON
TRANSPORT AND COMMUNICATIONS

To whom was referred the
Bill S-7, intituled: An Act to amend the
Canada Shipping Act.

The Honourable A. K. HUGESSEN, *Chairman.*

THURSDAY, MAY 21, 1964

No. 2

WITNESSES:

R. G. Greaves, National President, National Association of Marine Engineers of Canada; R. F. Cook, President, Local 425, Marine Officers' Section, Canadian Brotherhood of Railway, Transport and General Workers; J. R. A. Lindsay, B. C. Towboat Owners' Association; Alan Cumyn, Director, Marine Regulations, Department of Transport; G. F. Bullock, Secretary, Canadian Merchant Service Guild; Geo. F. Blain, Vice-President, Planning and Development, Upper Lakes Shipping Limited; R. Lowrey, President, Canadian Shipbuilding and Engineering Ltd.; A. S. Hyndman, Canadian Bar Association.

THE STANDING COMMITTEE
on
TRANSPORT AND COMMUNICATIONS

The Honourable
ADRIAN K. HUGESSEN,
Chairman

The Honourable Senators

Baird,	Macdonald (<i>Brantford</i>),
Beaubien (<i>Provencher</i>),	McCutcheon,
Bouffard,	McGrand,
Bradley,	McKeen,
Buchanan,	McLean,
Connolly (<i>Halifax North</i>),	Methot,
Croll,	Molson,
Dessureault,	Monette,
Dupuis,	Paterson,
Farris,	Pearson,
Gelinas,	Phillips,
Fournier (<i>Madawaska-Restigouche</i>),	Power,
Gershaw,	Quart,
Gouin,	Reid,
Haig,	Robertson (<i>Shelburne</i>),
Hayden,	Roebuck,
Hollett,	Smith (<i>Kamloops</i>),
Horner,	Smith (<i>Queens-Shelburne</i>),
Hugessen,	Stambaugh,
Isnor,	Taylor (<i>Westmorland</i>),
Jodoin,	Thorvaldson,
Kinley,	Veniot,
Lambert,	Vien,
Lang,	Welch,
Lefrançois,	Woodrow—(50).

Ex officio members

Brooks, Connolly (*Ottawa West*).

(Quorum 9)

ORDER OF REFERENCE

Extract from the Minutes of the Proceedings of the Senate, Wednesday, March 18th, 1964.

"Pursuant to the Order of the Day, the Senate resumed the debate on the motion of the Honourable Senator Bouffard, seconded by the Honourable Senator Beaubien (*Provencher*), for second reading of the Bill S-7, intituled: "An Act to amend the Canada Shipping Act".

After debate, and—

The question being put on the motion, it was—

Resolved in the affirmative.

The Bill was then read the second time.

The Honourable Senator Bouffard moved, seconded by the Honourable Senator Gouin, that the Bill be referred to the Standing Committee on Transport and Communications.

The question being put on the motion, it was—

Resolved in the affirmative."

J. F. MacNEILL,
Clerk of the Senate.

MINUTES OF PROCEEDINGS

THURSDAY, May 21, 1964.

Pursuant to adjournment and notice the Standing Committee on Transport and Communications met this day at 10.00 a.m.

Present: The Honourable Senators: Hugessen (*Chairman*), Baird, Bradley, Buchanan, Connolly (*Halifax North*), Dupuis, Fournier (*Madawaska-Restigouche*), Hayden, Hollett, Isnor, Lambert, Lefrancois, McLean, Molson, Power, Reid, Smith (*Kamloops*), Smith (*Queens-Shelburne*), Stambaugh, Taylor (*Westmorland*), Thorvaldson, Veniot and Woodrow. (23)

In attendance Mr. E. Russell Hopkins, Law Clerk and Parliamentary Counsel.

Consideration of Bill S-7, intituled: "An Act to amend the Canada Shipping Act", was resumed.

On Motion of the Honourable Senator Smith (*Queens-Shelburne*) it was agreed to table the report of the Special Committee on revisions to the Operating Engineers Act—Ontario Department of Labour.

The following witnesses were heard: R. G. Greaves, National President, National Association of Marine Engineers of Canada. R. F. Cook, President, Local 425, Marine Officers' Section, Canadian Brotherhood of Railway, Transport and General Workers; J. R. A. Lindsay, B. C. Towboat Owners' Association; Alan Cumyn, Director, Marine Regulations, Department of Transport; G. F. Bullock, Secretary, Canadian Merchant Service Guild; Geo. F. Blain, Vice-President, Planning and Development, Upper Lakes Shipping Limited; A. S. Hyndman, Canadian Bar Association; R. Lowrey, President, Canadian Shipbuilding and Engineering Ltd.

At 12.50 p.m. the Committee adjourned to the call of the Chairman.

Attest:

F. A. Jackson,
Clerk of the Committee.

THE SENATE

THE STANDING COMMITTEE ON TRANSPORT AND COMMUNICATIONS

EVIDENCE

OTTAWA, Thursday, May 21, 1964.

The Standing Committee on Transport and Communications to which was referred Bill S-7, to amend the Canada Shipping Act, met this day at 10 a.m.

Senator A. K. Hugessen (*Chairman*), in the Chair.

The CHAIRMAN: Honourable senators, I see a quorum, and I ask the committee to come to order. We are resuming our consideration of Bill S-7, and we have asked for representations from such members of the public as are interested in this bill.

We have with us today representing the Department of Transport Mr. Alan Cumyn, Director of Marine Regulations; Mr. R. R. Macgillivray, Assistant Counsel; Captain F. S. Slocombe, Chief, Nautical and Pilotage; Mr. J. H. W. Cavey, Chief, Harbours and Property. Also in attendance in case they should be needed are Mr. G. G. M. Guthrie, Supervisor, Registry of Shipping; Mr. H. O. Buchanan, Steamship Inspection Service; Mr. E. J. Jones, also of the Steamship Inspection Service; Mr. A. G. E. Argue, Radio Regulations Division; and Mr. C. D. Kenny, also of the Radio Regulations Division.

I should perhaps explain to the committee that the deputy minister unfortunately had to go to Washington last night, and so cannot be with us today.

The representatives of the public who are present today—this is the latest list I have, but it may not be quite complete—are Mr. George F. Bain, Vice President (Planning and Development) of Upper Lakes Shipping Limited. Is Mr. Bain here?

Mr. BAIN: Yes, sir.

The CHAIRMAN: Mr. W. J. Fisher, general manager of the Canadian Shipowners' Association. Mr. Fisher?

Mr. FISHER: Present.

The CHAIRMAN: Three representatives of the Canadian Bar Association: Mr. Ronald C. Merriam, secretary; Mr. Kenneth C. Mackay and Mr. A. S. Hyndman.

Mr. MERRIAM: Present.

The CHAIRMAN: Mr. C. Gordon O'Brien, manager of the Fisheries Council of Canada.

Mr. O'BRIEN: Present.

The CHAIRMAN: Mr. R. F. Cook, president, Local 425, Marine Officers' Section, Canadian Brotherhood of Railway, Transport and General Workers.

Mr. COOK: Present.

The CHAIRMAN: Mr. G. F. Bullock, secretary of the Canadian Merchant Service Guild.

Mr. BULLOCK: Present.

The CHAIRMAN: Mr. T. R. McLagan, chairman, Davie Shipbuilding Limited, Lauzon, Quebec.

Mr. LOWREY: Mr. McLagan is unable to be present. I am next on the list—Mr. Lowrey.

The CHAIRMAN: Mr. McLagan is not here, but Mr. Lowrey is, who is president of the Canadian Shipbuilding and Engineering Limited, Collingwood, Ontario.

Mr. W. A. Sankey, secretary of the British Columbia Towboat Owners' Association.

Mr. LINDSAY: He is not here.

The CHAIRMAN: Who are you?

Mr. LINDSAY: I am J. R. A. Lindsay of the B.C. Towboat Owners' Association, and with me is Mr. H. L. Cliffe of the B.C. Towboat Owners' Association.

The CHAIRMAN: You represent the Towboat Owners' Association?

Mr. LINDSAY: Yes.

The CHAIRMAN: And Mr. Stavenes, president of the United Fishermen and Allied Workers Union. Is he here? No response. Is there anyone here who wishes to make representations I have not so far named?

Mr. GREAVES: Yes, sir. My name is Greaves, from the National Association of Marine Engineers.

The CHAIRMAN: Anyone else?

Before we proceed, gentlemen, I think I should read to the committee several letters that I have received.

The first is a copy of a letter addressed to Mr. Hinds, signed by Mr. C. Gordon O'Brien, who is the manager of the Fisheries Council of Canada, and he is here this morning.

This is to advise that I will be present at the hearing and will be glad to make a brief statement to the committee indicating that this council is in agreement with the proposed legislation.

This matter was discussed very thoroughly with the industry during the past several years and we have come to an agreement with the department that we will support the amendment to the act, on the understanding that the regulations will not be implemented until we have reached a mutual agreement on several points which are still at issue. We are satisfied that, with this agreement, the proposed legislation is sound and in the best interests of the fishing industry.

It may be that a number of questions will be asked of me and I just want to point out that I am not a technical man and will be speaking basically from the administrative and policy viewpoint.

As I say, Mr. O'Brien is here, and he does not propose to give evidence but will be available to the committee in case members wish to ask questions.

I have received also a letter from the Canadian Shipowners Association, dated May 19.

Dear Mr. Hugessen:

We recently requested permission to appear before the Transport and Communications Committee of the Senate to make representations on Bill S-7, an act to amend the Canada Shipping Act.

The particular interest of this association extends only to those clauses relating to:

- (a) The International Convention for the Safety of Life at Sea 1960, clauses 1, 6 to 27 inclusive and clause 36.
- (b) The amendments to the International Convention for the Prevention of Pollution of the Sea by Oil, 1954, adopted on April 11, 1962; clause 28.

- (c) The Limitation of the Liability of Owners of Sea-Going Ships 1957, clauses 31 to 34 inclusive.
- (d) Restrictions on the coasting trade of Canada in the inland waters of Canada to Canadian registered vessels. We have some misgivings as to the drafting of clause 35 but understand the possible ambiguity is being drawn to the committee's attention by officials of the Department of Transport.

Our request to appear was to indicate only the Association's support of the foregoing amendments to the Canada Shipping Act. The clauses of Bill S-7 not referred to above do not affect ocean-going shipping and are therefore beyond our competency to comment.

Since we desired only to indicate our approval of those matters directly affecting us, it would seem an unnecessary use of the committee's time to make a public appearance solely for this purpose. It is hoped, therefore, that this letter will suffice.

The writer, however, expects to be in attendance at the public hearings commencing on Thursday, May 21st and will be pleased to answer any questions the committee may have.

That letter is signed by Mr. W. J. Fisher, who is the general manager of the Canadian Shipowners Association, and he is here this morning.

There are two further letters, addressed to Mr. Hinds. One is from the Department of Fisheries of Nova Scotia, dated May 20, written by Mr. J. W. Watt.

Thank you for giving us notice of the meeting of the committee on Transport and Communications. It is impossible for any of us to get to the meeting and, following such inquiries as we have been able to make since we received your letter, it does not seem likely that we could add much to the opinions and background information that the committee will receive from other sources.

Most of the discussion recently has centered on the 25-gross-tons stipulation and perhaps we should comment on this. In the early stages of discussion we believe the stipulation was 50-gross-tons. The fear was that this would establish an awkward line of diversion, since there are certain types of fishing craft in this province in which the gross tonnage may be just a little more or a little less than 50 tons. Chiefly for this reason, the Nova Scotia Fish Packers Association recommended 25-gross-tons. There are some misgivings in Nova Scotia that 25-gross-tons is too low but on the whole our feeling is that 25 would cause less difficulty than 50, having regard for the provisions contained in the proposed section 116B and for the generally simple requirements for examination and certification of new fishing skippers.

As I say, that is from the Department of Fisheries of the province of Nova Scotia, and is signed by Mr. J. W. Watt, director.

The fourth and last letter is from the Dominion Marine Association in Toronto. It acknowledges receipt of the notice of this meeting and simply goes on to say:

As the support of the association with respect to the Canadian Government's stand on the Safety of Life at Sea Convention is clear, the association feels that it should not take an active part in the committee hearings.

That is signed by John J. Mahoney.

Senator HOLLETT: Mr. Chairman, may I ask if anybody was communicated with in Newfoundland on this bill?

The CLERK OF THE COMMITTEE: Yes, the Newfoundland Federation of Fishermen; and the Newfoundland Shipowners' and Shipbuilders' Advisory Commission.

Senator HOLLETT: There was no reply from either of them?

The CLERK OF THE COMMITTEE: No, sir.

Senator SMITH (*Queens-Shelburne*): What was the first organization?

The CLERK OF THE COMMITTEE: The Newfoundland Federation of Fishermen.

The CHAIRMAN: Honourable senators, we have a number of witnesses who wish to appear before us, and I draw your attention to the fact that at least four of them are from the province of British Columbia. We are grateful to them for coming all this way to give us their advice. It is possible we may not be able to get through this morning and under those circumstances I think perhaps it is only a matter of courtesy to the British Columbia witnesses that we should hear them first.

Hon. SENATORS: Agreed.

The CHAIRMAN: Moreover, I am given to understand that most, if not all, of the British Columbia witnesses are interested principally, if not entirely, in section 4 of the bill, the section that deals with towboat operation in protected waters. If that be so, then I suggest the committee might proceed to consider section 4 and hear these witnesses from British Columbia.

Hon. SENATORS: Agreed.

The CHAIRMAN: Very good, then. The first I have on my list is Mr. R. F. Cook, who is president of Local 425 of the Marine Officers' Section, the Canadian Brotherhood of Railway, Transport and General Workers. Would you come forward, Mr. Cook.

Mr. R. F. Cook, President, Local 425, Marine Officers' Section, Canadian Brotherhood, Railway, Transport and General Workers: In consultation with the president of the National Association of Marine Engineers we find that both our ideas are similar pertaining to this particular problem and we request, if we may, to submit a joint brief, for matters of expediency.

The CHAIRMAN: That is Mr. Cook—

Mr. COOK: That is Mr. Greaves and myself.

The CHAIRMAN: Would both of you like to come up then?

Mr. COOK: Yes.

The CHAIRMAN: We have Mr. Cook, and Mr. Greaves of the National Association of Marine Engineers. Who will represent the association before the committee? Mr. Greaves, do you have a brief?

Mr. Robert Greaves, President, National Association of Marine Engineers: Yes, Mr. Chairman.

The CHAIRMAN: While the brief is being circulated to honourable senators, I think perhaps it would be helpful to the committee if I were to read out what the deputy minister said at our last meeting about section 4 of the bill; as appears at page 30 of the proceedings:

In so far as the department is concerned, we have reached what we consider is a proper technical judgment, but we realize that probably the owners on the one side, and the engineers' union on the other, will both feel it is not correct, and each would like to see it moved in their own direction. This is primarily a problem on the west coast, and we

understand that both groups involved wish to appear before you to give evidence. I am speaking of the B.C. Tug Owners and the National Union of Marine Engineers.

That is the situation with which we are faced this morning.

Mr. GREAVES: Mr. Chairman and honourable senators: We are appearing to present the views of our members, the certified marine engineers of Canada, whose intimate, practical knowledge of the matters covered by section 115 of the Canada Shipping Act should be of some assistance to the committee.

At this time we should like to draw the attention of the committee to the following factors having a direct bearing on any changes in the provisions of section 115, namely:

1. The protection of human life and property;
2. The technical considerations involved;
3. The employment picture.

For the sake of clarity and brevity, this submission is limited exclusively to these matters; although we expect to make further presentation of our views on other changes proposed in the Canada Shipping Act. Our specific recommendations regarding changes in section 115 are listed at the concluding section of this brief.

1. Effect of proposed changes in section 115 on protection of human life and property:

Safety is the number one priority in legislation and regulations affecting shipping, as the many sections and provisions dealing with this matter in the Canada Shipping Act testify. Yet safety will be compromised under the proposed revision under the following circumstances:

(a) tugs of not more than 150 gross tons, powered by internal combustion engines of not more than 15 NHP, in waters not more open than would be encountered in a home-trade voyage class III or an inland voyage class II, under conditions prescribed at the minister's discretion, are relieved of the necessity of carrying sufficient certificated engineers to ensure reasonable periods of watch. Generally the result will be to eliminate one engineer from these vessels as presently operated;

(b) vessels with internal combustion engines of less than 8 NHP and 600 BHP, (regardless of the size of the vessel) may operate on any voyage with no engineer;

(c) vessels of more than 15 gross tons, with internal combustion engines of 8 NHP to 10 NHP and 600 BHP, may operate with no engineer on home-trade class III voyages of less than 10 miles, and on all home-trade class IV and minor water voyages.

These provisions may allow vessels of up to 1500 BHP, and up to 150 gross tons, to operate without an alternate engineer to cover all watches. Even more dangerous is the fact that vessels of unlimited size can operate in any waters, with main propulsion units of 765 BHP, with no engineer aboard, e.g. vessels now in operation:

Vessel	Length	Gross Tonnage	B.H.P.	N.H.P.
Island Challenger	91'	165	765	7.8
Black Bird II				
now				
Gulf Bird	92'	98	765	7.8
La Brise	90'	182	765	7.8

Note: These vessels can operate in any waters without a certificated engineer.

The CHAIRMAN: You mean under this amendment?

Mr. GREAVES: Yes.

Senator REID: Are those vessels just a simple number?

Mr. GREAVES: That is just a simple number, yes, sir. The hazard to life and property arising from absence of a qualified engineer, can be illustrated by imagining one of these tugs towing a heavily laden scow or large boom of 1½ million fbm of logs when for some reason the engine conks out. The very much greater weight of the tow compared to the tug, both of which are proceeding at the same speed when the engine fails, means that the tow has correspondingly greater momentum. It will require much more time and distance to overcome the momentum of the tow than of the tug. In other words, the tug will be unable to get out of the way and the tow will plow into it.

Exactly this situation occurred on February 16, 1960, when the scow towed by M.V. *Myrmak* in the Fraser River sunk the tug, resulting in the loss of two lives. The captain of the tug, Ronald Maxim, was quoted by the press as stating, "The engine had conked out, it may have been air in the fuel line; we could not pull away from the scow; it kept pushing the tug into the water."

Of course, exactly the same hazard is presented to any other person or structure unable to move out of the way of an uncontrolled tow.

The essential protection assured by the presence of a qualified, experienced engineer where engines are operating was well stated by the Ontario Special Committee on Revisions of the Operating Engineers' Act and Regulations Made Thereunder:

After hearing the evidence presented, the committee does not consider that the operating personnel can be replaced entirely by automatic equipment and controls. While it is true that such equipment can and does add to the safety of operation, it is man-made, maintained and adjusted, and therefore, is subject, in some measure, to human limitations. Moreover, a person has five senses, namely: sight, hearing, touch, taste and smell, all of which are used every day and hour and when he is accustomed to a certain environment or field of activity, he reacts subconsciously to slight changes in that environment. A common example of this is the almost intuitive sensing of slight changes in rhythm of a running motor or other machinery, which the experienced operator recognizes, but other observers do not. Also, the circumstances that temperatures are rising to an undesirable degree is frequently indicated by a slight change in smell. These are senses that could possibly be replaced by various kinds of electronic or other controls but the number, variety, and complexity involved in such replacements would probably be prohibitive in complication, cost and maintenance.

I might digress, Mr. Chairman. I have a copy of the report of the commission under the special committee set up by the Honourable Mr. Rowntree, at that time the Minister of Labour, and I would like to leave this with you if I may.

The CHAIRMAN: You have quoted in your brief in part?

Mr. GREAVES: Yes.

Senator THORVALDSON: I take it these are all diesel engines of which you are speaking?

Mr. GREAVES: Diesel engines.

The CHAIRMAN: Unless it is the wish of the committee, I do not think it is necessary to burden ourselves with this whole report of the Ontario committee. You are quite certain you have given us all that part of it, Mr. Greaves?

Mr. GREAVES: The whole report deals with the safety of operation under the Operating Engineers' Act. It is quite extensive.

Senator SMITH (*Queens-Shelburne*): Perhaps it might be useful if that report were tabled for the use of the committee.

The CHAIRMAN: Shall the report be tabled?

Hon. SENATORS: Agreed.

Senator HAYDEN: Mr. Chairman, could I ask the witness a question? Have you any calculation of the rate by which a tug would be overtaken by a scow when the engine fails?

Mr. GREAVES: I do not have that offhand. I might ask Mr. Cook if he can answer you. He might be able to assist us in that respect. It would depend. In the Fraser River, when the river is flowing out, it would depend upon the speed of the tug at the time the engine failed. A number of variables would enter into it. From personal experience I can say that once the power goes the tow seems to come up upon you very quickly.

The job of an engineer on a vessel is not only to sense trouble and act quickly to head it off, but also to effect repairs quickly and expertly. He is completely on his own, with no garage mechanic and tow truck nearby to come to his aid in the case of an auto engine failure on the highway. On him rests the whole responsibility of keeping the machinery in good order, and fixing it when anything goes wrong. In these situations, on his actions depends the safety of everyone on the vessel or involved in its movements.

Although modern engines and control apparatus have added greatly to the reliability of vessel operation, they have also had the effect of making expert supervision and care more indispensable. The increased power output of modern marine diesels in relation to their weight tends to accentuate engine vibration, often leading to fractured fuel or oil lines. The combination of vibration from wave motion and engine often leads to plugged bilges when the vessel rolls and pitches. Introduction of more sophisticated auxiliary equipment increases the need to ensure that these systems function properly, or are quickly repaired when they do not.

II. TECHNICAL CONSIDERATIONS OF SETTING LIMIT BELOW WHICH VESSELS CAN BE PERMITTED TO OPERATE WITHOUT ENGINEERS

In proposed subsection (2) of section 115, the limit is set in size of vessel at 150 gross tons, and in power of internal combustion engines at 15 nominal horsepower. In proposed subsection (2a) of section 115, the lower limit is set in size of vessel at 15 gross tons, in power of internal combustion engines at 8 to 10 nominal horsepower and 600 brake horsepower, and in type of voyage at home-trade voyages class III of ten miles in length, or of class IV, or of a minor waters voyage.

The use of nominal horsepower (NHP) is ambiguous and dangerous. Nominal horsepower is not a scientific measure of either the potential or actual output of an engine. It is simply an arbitrary convention, based on only one of the variables in engine design which help to determine its output. It may have had some usefulness in roughly classifying early engines, but it is quite fictitious and misleading in the present stage of advanced engine design, particularly of marine diesels. There is no connection whatever between an engine's NHP and its actual output. It is entirely feasible to design two diesel engines with the same NHP but with widely different brake horse power (BHP) outputs. For example: a Werkspoor RUB-160, 12-cylinder diesel has a NHP of 8 and a BHP of 650; while a Caterpillar D398, a 12-cylinder, has a NHP of 7.8, but a BHP of 1090.

The NHP is currently defined for diesels, under the Canada Shipping Act regulations, as the square of the cylinder diameter times the number of

cylinders divided by 60 (or by 45 for opposed pistons). Whereas the theoretical or indicated horsepower is given by the formula—

$$\text{IHP} = \frac{\text{PLAN}}{33,000}$$

where P = mean indicated pressure in pounds per square inch.

L = length of stroke in feet.

A = area of piston in square inches.

N = number of working strokes per minute.

The output, or BHP, is the IHP multiplied by the mechanical efficiency factor of the engine, a fraction less than unity. It is thus obvious that there are a number of other variables besides piston size which determine the capability of an engine, and these cannot be expressed by an arbitrary number 1/60 for all conceivable single acting diesel designs.

The following quotation from a standard reference book widely used by marine engineers emphasizes the point, that BHP is the accepted method of engine rating:

Stating that an oil engine develops a certain horsepower is apt to convey a wrong impression regarding its actual capabilities, unless the type of engine and manner of driving the injection compressor, scavenging and cooling water pumps etc. is also given. For instance, in some designs the injection air compressor is driven from the main engine, while in others it is independently driven. Also in the case of two engines of the same IHP one operating on the two-cycle and the other on the four-cycle principle and each having the air compressor directly coupled the four-cycle will be capable of doing more useful work than the two-cycle engine, since in the latter part of the IHP will be expended in driving the scavenging pumps, unless of course, they are independently driven. For these reasons the power of oil engines is generally stated in terms of actual power developed on the brake test or BHP.

(The Running and Maintenance of the
Marine Diesel Engine, by John Lamb,
5th edition 1945, Charles Griffin and
Co. Ltd., London, pp. 691-2)

Under modern practice involving the increasing use of hydraulic, pneumatic or electric control and auxiliary apparatus, the reliability of auxiliary engines becomes just as important as of the propulsion engines. The continuous proper functioning of auxiliary engines for wheelhouse control, bilge level alarms, fire detection and other safety devices is obviously of vital importance. This means that the total BHP of all engines in a vessel should be the criterion for judging the need for engineers in attendance—not just the BHP of the propulsion engines.

In this connection it might be noted that there are instances of a self-propelled dredge being classified as a ship where the main propulsion engines may be 1,000 BHP, with pumps requiring an additional engine output of 4,000 BHP.

The Australian practice in setting BHP requirements for certificated engineers recognizes exactly this problem, and combines the BHP of both propulsion and auxiliary engines to set the standard.

III. EFFECT OF LOWERING STANDARDS ON MARINE ENGINEERS

At a time when engines are becoming increasingly powerful and control apparatus increasingly complicated, it seems unwise to alter standards in a manner which tends to downgrade technical skill and experience. The immediate result of the proposed changes in Section 115 will be to throw 200 to 300 certificated engineers out of jobs on the west coast alone. A secondary, long-term effect will be to discourage entry into the profession and significantly narrow the training opportunities for lower rank engineers to qualify for higher certificates.

The Government shipbuilding subsidy program in recent years has given new stimulus to expansion of Canada's lake and coastwise fleets. Now there appears to be some possibility that some similar Government encouragement may be forthcoming to stimulate re-development of Canadian deep-sea operations. In view of these prospects, it would seem most inopportune to place a new impediment in the way of attracting and training men in the marine engineer's profession. Where are the new, qualified engineers to come from if the training grounds on small vessels are reduced or eliminated?

In the United Kingdom, before anyone may act as an engineer, "certificated" or "non-certificated", he must have served an apprenticeship of at least four years "building and/or repairing marine engines and boilers". He must also attend day and night classes for instruction in mathematics, dynamics, machine drawing, general engineering knowledge, science and is subject to a pre-sea oral examination by a Minister of Transport Surveyor to be graded as to suitability. In Canada, there are not such stringent requirements, although some steps have been taken in past years by the Department of Transport to improve the minimum standards for marine engineers. In 1932 a motor certificate was introduced. In 1954 it was recognized that modern machinery had made considerable advances and the 3rd class engineers certificate was revised to permit its use as chief engineer on vessels of 25 Nominal Horsepower or less. This was a trend in the right direction, which should not now be reversed. Any action by government to downgrade the standards of any technical or skilled workers is surely a retrograde step with serious implications for the future in this day of rapid technological advance.

IV. EMPLOYMENT PICTURE

Rather than portray a picture of the whole towboat industry on the West Coast of Canada, we will show what has taken place in just one company, and, following the normal trend, what will probably take place in the near future.

STRAITS TOWING LTD.

Vessels recently taken out of operation:

Vessel	B.H.P.	No. of Engineers
Wilmae Straits	450	2
Montague Straits	230	2
Pacific Chief	450	2
Georgia Straits	400	2
Haro Straits	450	2
<hr/>		
Total horsepower	1980	No. of engineers removed 10

Because engineers on towboats work an 84 hour week, they work on a day on, day off basis. This means there would be two crews for each vessel, in other words the removal of $10 \times 2 = 20$ engineers.

Senator THORVALDSON: What happens to these vessels? Are they scrapped or do they remain in use after being taken from this particular type of job?

Mr. Cook: They are generally scrapped. Some have been sold to people who convert them into yachts. Others sometimes find their way into the fishing industry as towboats or they are used as barges.

Senator THORVALDSON: Thank you.

Mr. GREAVES:

Vessels built to replace the above vessels:

Vessel	B. H. P.	No. of Engineers required by proposed legislation
Neva Straits	800	1
Haro Straits	765	
Vessel	B. H. P.	No. of Engineers
Rosario Straits	765	
Georgia Straits	765	
Malasapina Straits	765	
Total Horsepower	3860	Total Engineers $1 \times 2 = 2$

Probable Future Changes:

Vessel	H. P.	Gross Tons	No. of Engineers
Charlotte Straits	800	185	2
Fury Straits	750	181	2
Hecate Straits	500	175	2
Magellan Straits	500	177	2
Broughton Straits	375	150	2
Burnaby Straits	400	101	2
Total H. P.	3325	Total Engineers $12 \times 2 = 24$	

Senator SMITH (*Queens-Shelburne*): What kind of changes do you mean when you say "probable future changes"?

The CHAIRMAN: The next paragraph clears that up, senator.

Mr. GREAVES:

All of the vessels named above could be re-engined with 765 H.P. engines with a N.H.P. of 7.8, and will not require a certificated engineer under the proposed legislative changes. These vessels would then have a total horsepower of 4590.

Senator THORVALDSON: Since what year have these vessels been required to carry an engineer or two engineers? Is that since the 1932 legislation or the 1954 legislation, or what is the purpose for which they have been required?

Mr. GREAVES: The 1932 legislation.

Senator THORVALDSON: Prior to that they were not required to have an engineer?

Mr. GREAVES: The diesel certificate came in at that time. There was no separate diesel certificate at that time. The marine engineer's certificate, whether it was for steam or diesel, they were required to carry an engineer.

In order to circumvent the proposed legislation, operators could, and because of economic competition, probably would, change their heavy-duty engines with high nominal horsepower, for high-speed engines similar to the 765 B.H.P. Caterpillar, which has a nominal horsepower of 7.8. This will probably result in the removal of from

two to three hundred certificated engineers from the towboat industry. Many of these men have devoted most of their lives to help build this industry to the very healthy condition it is in today.

RECOMMENDATIONS

Following from the foregoing remarks, we wish to place before the Committee the following specific recommendation:

Section 115, subsection 2(a) should be amended by deleting the word "and" from the fifth line and substituting therefor the word "or".

This subsection would then read:

"2 (a) Every ship of more than fifteen tons gross tonnage, other than a passenger ship of a pleasure yacht, powered by internal combustion engines of more than eight but not more than ten nominal horsepower or of more than six hundred brake horse power as determined by the Board shall, when making any voyage other than a home-trade voyage class III of not more than ten miles in length, a home-trade voyage class IV or a minor waters voyage, be provided with the following:

(a) if the ship is not solely employed in fishing, a third class engineer, duly certificated, and

(b) if the ship is solely employed in fishing, a chief engineer of a motor-driven fishing vessel, duly certificated, and subsection (2) does not apply to the ship when making such voyage."

In addition to the above stated specific recommendation, we recommend:

The CHAIRMAN: Excuse me, what change do you suggest in the section as now ordered at the top of page 4? I cannot see the change you are suggesting.

Mr. GREAVES: The change is one word: from "and" to "or".

The CHAIRMAN: I see.

Senator HOLLETT: Is that on page 3 or 4?

The CHAIRMAN: Page 4. The only suggestion that is made with regard to that is in line 5 on page 4 the substitution of the word "or" for the word "and".

I am sorry, Mr. Greaves.

Mr. GREAVES:

1. The use of nominal horse power (NHP) as a measure of the size and capacity of engines should be abandoned and the universally accepted measure of output brake horse power (BHP), should be adopted.
2. For the purpose of establishing vessel power below which no qualified engineer is required on board, maximum BHP of propulsion and all auxiliary engines together should be set at 600 BHP.
3. For vessels with 600 BHP, as above defined, detailed manning requirements of engineers should be established to assure adequate constant supervision over the engines and auxiliary equipment at all times.
4. A program to provide adequate training facilities, job opportunities and advancement to ensure improved technical standards and a continuing supply of qualified marine engineers for the future needs of Canada as a great trading nation should be worked out jointly by representatives of the government, shipowners and engineers concerned.

All of which is respectfully submitted by
Canadian Brotherhood of Railway, National Association of Marine
Transport and General Workers, Local 425. Engineers of Canada, Inc.

Thank you, Mr. Chairman.

Mr. Chairman and honourable senators, if there are any questions, we would be very happy to answer them.

The CHAIRMAN: Thank you. Are there any questions the members wish to ask of the witnesses? These are rather technical matters, honourable senators. I thought perhaps we should proceed next by asking the towboat owners for their views, and then have the views of our own expert in the department, Mr. Cumyn.

Senator HOLLETT: Are you referring to fishing vessels as well?

Mr. GREAVES: To tugs.

Senator HOLLETT: To tugs only?

Mr. GREAVES: Yes.

Senator MOLSON: Mr. Chairman, could I ask a question on page 2 of the brief? The table set out there indicates that in two cases the tonnage exceeds 150 tons. I was wondering if that could be explained.

Mr. COOK: I did not hear the question.

The CHAIRMAN: The witness did not hear your question, Senator Molson.

Senator MOLSON: On page 2 of the brief, the table, two of the tonnages of vessels shown exceed 150 tons.

Mr. COOK: That is right sir. This is one of the problems we find with the proposed legislation, that a vessel of any size as long as it is below eight nominal horse power may sail in any waters. This is one of the openings that are left here.

Senator THORVALDSON: That is without a third class engineer?

Mr. COOK: Without a certificated engineer.

Senator THORVALDSON: Yes, without a certificated engineer.

Senator REID: Is this in accordance with the names of companies or individuals?

Mr. COOK: Companies, sir. There are three different companies.

Senator THORVALDSON: I have one question. You referred to the number of engineers that would be displaced as about 200, I believe?

Mr. COOK: Yes.

Senator THORVALDSON: Would that be a case of losing their jobs, or would they find some other employment in the marine industry? Would they simply be out of a job, or would they be retained by their present employers?

Mr. COOK: I should like to point out, sir, that even though some of these vessels, thirty or forty of them, are high speed vessels, which have been built, they do keep a certificated man aboard. However, if some of the smaller operators decide to sail without one this will force the larger companies, in order to compete with them, also to get rid of their engineer. As a result of this, eventually, these people will be right out of the industry.

Senator SMITH (*Queens-Shelburne*): On page 3 of your brief you give an example of a scow towed by M. V. *Myrmak* in the Fraser River having sunk the tug, resulting in the loss of two lives. The captain speculated that there might have been air in the fuel line. If you had had an engineer on duty in the engine room at the time that occurred how long would it have taken him to clear the line? My question is would that have avoided this tragic result?

Mr. GREAVES: Yes, in my opinion; because it is like a car running out of gas, it will jerk and stop. If there is air in the fuel line that is a definite indication of missing in the cylinders. In our case, we would bleed the air off quickly.

Senator SMITH (*Queens-Shelburne*): How long would it take to perform that operation?

Mr. GREAVES: In my experience, you start, immediately you hear the change of rhythm, to determine what it is. You may be able to do it in a matter of two or three minutes, or even one minute.

Senator SMITH (*Queens-Shelburne*): You would have time to do that before the scow caught up with the tug. I thought the scow would pile up pretty quickly, and not change circumstances. Thank you.

Senator REID: A scow could not catch up with a tug; they are so far apart. How far apart are they, 2,000 feet?

Mr. GREAVES: Sometimes.

Senator HOLLET: A scow would not be that distance apart, would it?

Mr. GREAVES: If it were open waters it might be 2,000 feet; but in narrow waters it might be 200 feet.

The CHAIRMAN: Any further questions? Thank you for your presentation, Mr. Greaves.

The two representatives of the British Columbia Towboat Owners' Association are Mr. J. R. A. Lindsay and Mr. H. L. Cliffe. I understand that Mr. Lindsay will speak to us?

Mr. LINDSAY: Yes.

Mr. J. R. A. Lindsay, British Columbia Towboat Owners' Association:

The CHAIRMAN: Have you a written presentation to circulate, Mr. Lindsay?

Mr. LINDSAY: We have a written brief, sir. It was my thought that I would not read it, but I would just highlight the items to save time.

The CHAIRMAN: Have you copies of the brief?

Mr. LINDSAY: We have about 30 copies, Mr. Chairman.

The CHAIRMAN: Will the Clerk of the Committee kindly circulate these copies to the members? Perhaps you will now proceed, Mr. Lindsay.

Mr. LINDSAY: Thank you. Mr. Chairman and honourable members of the Senate, it was not my intention originally to read our brief, but I thought with the foregoing I might read it. Mr. Cliffe, my associate and myself are both tugboat operators on the west coast in British Columbia, and we are representing the British Columbia Towboat Owners' Association. Our association represents 34 tugboat companies, large and small. To my knowledge we employ about 244 engineers in toto. I do not think there are more than 300 engineers working on tugboats on the west coast of Canada.

Senator THORVALDSON: Before you continue, Mr. Lindsay, may I ask you a question? When you said that you and your associate are tugboat operators, do you mean by that you are heads of one or two of these 34 companies, or what are the actual positions? Are you officers of that association?

Mr. LINDSAY: Mr. Cliffe is past president of the association. I don't know exactly what I am, but I am one of the directors. I would say the 34 companies operate about 150 tugboats in toto on the west coast.

The British Columbia Tugboat Owners' Association comprises 34 tugboat companies operating on the British Columbia coast. These companies together operate vessels of various sizes from harbour tugs to deep sea tugs, and comprise the major part of the industry.

Early in 1960 our association was advised by the Department of Transport that they were reviewing certain parts of section 115 of the Canada Shipping Act and asked our views on suggested amendments which we subsequently submitted to the Director of Marine Services and to local steamship inspection officials. In addition, we understand that the National Association of Marine Engineers also submitted their recommendations. Eventually subclause (3) of clause 9 of Bill C-98, which received first reading on May 20, 1961, included a revision covering engineers on tugboats. This revision provided that tugs of not more than 150 tons gross tons powered by internal combustion engines of not more than 15 nominal horsepower fully controlled from the bridge may be exempted from carrying the additional certificated engineer required by subsection (2) of section 115 when making voyages not more open than home trade class III or inland voyages class II. This clause in its original form passed second reading in the House of Commons and passed the Standing Committee on Railways, Canals, and Telegraph Lines. On final reading in the house subclause (3) of clause 9 was deleted after a long speech by the Honourable Mr. Harold Winch. Mr. Winch pointed out that:

1. Nominal horsepower was an antiquated term.
2. 50 to 100 engineers on the west coast tugboats would be laid off if such an amendment should pass.
3. Tugs operating under suggested amended regulations would be unsafe.
4. Automated engines on west coast tugs were unreliable and such vessels needed just as many engineers.

None of the above statements were factual, nor could they be substantiated by evidence.

Between June 12, 1961 and the present date a great deal of further consideration has been given to this section of the Canada Shipping Act. We understand it has again been submitted in a further amended form to the Senate under Bill S-7, which received first reading March 3, 1964. In addition to allowing the use of one certified engineer on vessels under 150 gross tons and not more than 15 nominal horsepower on certain restricted voyages, as in the original Bill C-98, a further limitation has been included. This further limitation headed subsection 2a of section 115 stipulates that vessels of more than 8 but not more than 10 nominal horsepower and more than 600 brake horsepower shall carry a 3rd class engineer duly certificated. In the past no tugboat of 10 nominal horsepower or less needed to carry such a certificated engineer.

We of the B.C. Towboat Owners' Association have the following comments to make in regard to proposed amendment (2)(c) of section 115:

1. We are not in favour of the 150 gross tons limitation placed on this amendment but otherwise feel that this amendment is well worded.
2. A vessel of 150 gross tons is not a large ship and, in general, must be a vessel of less than 100 feet in length.
3. The operation of the main engine must be fully controlled from the wheelhouse and, in fact, on all B.C. vessels can be controlled from at least two other control positions.
4. The Minister may prescribe any other conditions which he deems advisable before making an exemption under this clause.

5. This clause only applies to vessels operating in Home Trade Class 2 waters or Inland Class 2 waters which can be restricted by the Steamship

Inspector and certainly will not allow a vessel to go more than 20 miles off shore or more than a maximum distance of 100 miles between ports of refuge.

This suggested amendment, therefore, has a great number of built-in restrictions.

Many of our members have been in business on the B.C. coast for over 45 years. These men have seen tremendous changes take place in the construction, powering and outfitting of B.C. coast tug boats. This has been particularly accentuated by the ship building subsidy which is now in effect. The days of the wooden tug boat are finished and these old vessels are being replaced by modern welded steel hulls with tremendous improvements in seaworthiness and reliability.

These same operators have seen a transition from coal and oil fired steam engines to the first unreliable heavy duty diesel engine which required a continual watch for bearing failure and constant mechanical lubrication.

They have seen metallurgical improvements whereby the quality and weight of engine parts have been improved, plus the addition of many types of both visual and audible alarms being attached. Whether engines are over or under 10 nominal horsepower they have seen the fitting of multi-station automatic controls for both main engine and auxiliary equipment.

Both twoboat operators and employees must agree that the modern tug boat is safer and more reliable than the older vessels for which section 115 of the Canada Shipping Act was originally designed.

We feel also that we must outline a rebuttal to some of the arguments put forward by the Honourable Mr. Winch. First of all, there are only 9 tug boats on the British Columbia coast which are less than 150 tons and between 10 and 15 nominal horsepower. Therefore, at the maximum, only 18 engineers could be displaced (2 such engineers necessary to continuously man one vessel). However, a number of these vessels have certificates which are higher than Class 3 certificates and, therefore, the engineer could not be replaced. Some operators have served as engineers on this class of vessel and it is a well known fact that these engineers do not keep a constant watch in the engine room, but spend a great deal of their watch in the galley and wheelhouse. It is therefore a fact that a 24-hour watch is not being kept at the present time in the engine room on such vessels.

If, also, the automatic controls and both visual and audible alarms are not reliable tow boat operators in British Columbia as well as ship operators all over the world are wasting a tremendous amount of money.

With the strides that are being made through automation and technological advances we of the B.C. towboat industry feel that this section will certainly be revised further in years to come. We are sorry to see the limitation of 150 tons imposed in this section. It should be at least 200 gross tons; in fact, we believe within the next few years the industry will be requesting a limit of 250 gross tons.

Let us now consider proposed amendment subsection 2a of section 115. From our association's viewpoint this amendment can only be a regression after considering the foregoing arguments. With the great improvements in the reliability of modern marine engines and with all the automated controls and alarms, particularly on this size of engine which is under 10 nominal horsepower, we can see no reason for carrying any certified engineers. Vessels of this class have already been operating for over 10 years on this coast without certified engineers and, in fact, with individuals who are in charge of the engine but who also perform other duties. Certified engineers have not been required in the past on vessels under 10 nominal horsepower and it is difficult to see why they should be required in the future.

We of the B.C. towboat industry are particularly interested in operating safe and efficient vessels. In fact, in the past five years management has instituted and spent considerable capital on industry wide safety programs. Because of the ship building subsidy we have been able to put into service many new vessels which all must agree are safer and more seaworthy than vessels previously in existence. It is therefore our contention that the proposed change to 8 nominal horsepower is indeed a backward and unnecessary step which, if implemented, will lower the efficiency of the industry.

We of the British Columbia towboat industry are anxious to provide any further information which the committee might require and look forward to the opportunity of being present in Ottawa when committee meetings are held.

Mr. Chairman, I will be very pleased to answer any questions.

Senator FOURNIER (*Madawaska-Restigouche*): Mr. Chairman, for those who know very little about tugboat operation can we be informed as to how many are employed on a tugboat?

The CHAIRMAN: How many engineers?

Senator FOURNIER (*Madawaska-Restigouche*): How many engaged in all duties would be employed? I take it that a tugboat would have a captain. How many other men would be employed?

Mr. LINDSAY: The crew would vary from two men to 14 men on the largest tug. The average tugboat, I would say, carries between four and seven men. That is the average complement. Some tugs, one of which was mentioned in the previous brief and which was over-run by a scow, are river yarding tugs. They just yard scows from the mills to ships, and that kind of thing. Other tugs take tows from Vancouver to Prince Rupert and the Queen Charlotte Islands.

Senator FOURNIER (*Madawaska-Restigouche*): What are the duties of the engineer? Does he perform other duties than just looking after the engine on the tug?

Mr. LINDSAY: Mr. Chairman, it depends on the size of the vessel. Some of the vessels under discussion here are about 755 horsepower. It is our feeling as operators that there is not a full-time job for an engineer on that class of vessel. In this case you are talking about a 5-man crew which would include a master, a mate, an engineer, a cook and a deck hand. With radar and the wheelhouse handling the master is recognized to have more work to perform, and with automation the engineer has less work to perform, and if he can help out with certain other duties such as handing a line to somebody, or taking the wheel while the mate goes to the bathroom, and that kind of thing, then he should do so. This is the kind of thing they do on certain of these vessels.

Senator HOLLETT: Are the masters and mates certificated?

Mr. LINDSAY: The masters are certificated, and a great proportion of our mates are certificated tugboat masters. They have their ticket, but they have not taken command yet.

Mr. H. L. Cliffe B.C. Tugboat Owners' Association: With respect to the *Myrmak*, which was mentioned by the engineers, I do not think that boat had an engineer on board.

Mr. LINDSAY: No, it is a small yarding boat which has a skipper and a crew of two. That type of boat would not carry an engineer, anyway.

Mr. CLIFFE: Yes, I do not think that type of boat is required to carry an engineer.

The CHAIRMAN: Are there any further questions of these witnesses? If not, honourable senators, we might now get the view of the department. I understand that Mr. Cumyn will not be available after today because he has to go to Europe. Is that not so, Mr. Cumyn?

Mr. Alan Cumyn, Director, Marine Regulations, Department of Transport: Yes.

The **CHAIRMAN:** Perhaps Mr. Cumyn can tell us the department's views. We have heard the opposing views of the engineers and the operators. Thank you, gentlemen, for your presentation.

As I informed the committee, Mr. Cumyn is the director of Marine Regulations in the Department of Transport.

Senator REID: Perhaps he can address some of his remarks to masters and mates.

Mr. CUMYN: Yes, I will try.

Mr. Chairman and honourable senators, when the situation on the west coast with respect to the development of small high-speed marine engines and their fitting on tugboats in place of the old slow-turning heavy-duty type, and the fitting of them with automated machinery, including gauges on the bridge which showed rise in temperature in the engine room, the temperature of bilge water and the temperature in the bearings, or that kind of alarm or danger signal, came to the attention of the Board we sent one of our most experienced members, who is a marine engineer with many years' experience at sea and as a steamship inspector, to the west coast to investigate these changes. He discussed the situation with tugboat owners and with the representatives of the National Association of Marine Engineers, and made a trip on one of the newly automated tugs, and then came back and reported to the board—which, incidentally, is composed also of marine engineers who have had many years' experience at sea—

The **CHAIRMAN:** Which board, please?

Mr. CUMYN: The Board of Steamship Inspection—recommending this first change, which is subsection 1, to the effect that tugs having engines of between 10 and 15 nominal horsepower, which presently require watchkeeping engineers, should be exempted from the carriage of watchkeeping engineers provided the gauges on the bridge indicate conditions in the engine room, and that, therefore, the officer on watch on the bridge can maintain a surveillance of the conditions in the engine room, but recommending also that the requirements for the carriage of a third-class engineer on each of these ships should remain. So that, in effect, we propose to do away with the watchkeepers substituting the instrumentation which is fitted, but retaining one engineer who does not stand a watch but maintains constant supervision over the machinery and who is ready at command if something goes wrong.

The original legislation in section 115, is, of course, based on safety, and does not take into account labour conditions, because to do so would of course prejudice the interests of safety with which the Board of Steamship Inspection is solely concerned, though we do give some thought to the effect on the labour market and we endeavour to avoid in this type of legislative amendment changes which will throw a lot of people out of work.

Dealing with the changes which have been claimed by the Marine Engineers' Association and by the Shipowners with respect to the number of men that will be thrown out of work by this change to subsection one, our steamship inspection representatives on the west coast, who are very close to the situation and one of whom, Mr. Jones is here today, advises that in so far as they can tell there will be nine tugs affected by this change, which would mean 18 engineers thrown out of work or thrown off these tugs, if the owners decide to go ahead and automate them.

Sir, I wonder if at this stage I could say a few words with regard to the nominal horsepower, this rather difficult subject over which the Board has sustained some criticism?

Nominal horsepower is based on cylinder area; that is to say, the square of the diameter of the cylinders and the number of cylinders. It does not bear an accurate relationship to the brake horsepower developed by an engine, but it does have this one big advantage, that in the calculation of the nominal horsepower of any ship there can be no argument, because it is based entirely on the cylinder diameter and the number of cylinders.

Senator REID: What is the meaning of the term "brake horsepower"?

Mr. CUMYN: Brake horsepower bears a relationship to the indicated horsepower which is the actual horsepower developed in the cylinders of an engine. It is taken by a pony brake and is the indicated horsepower minus the horsepower lost through friction in turning the engine. It bears a direct relationship to the actual horsepower, whereas nominal horsepower does not.

I would like to explain the reason the Board clings to this nominal horsepower measurement—despite the fact the industry does not like it, I feel mainly because of the lack of familiarity with the term—is because it keeps the Board out of trouble in the calculation of horsepower of any ship because of the simplicity of this calculation. Whereas if we go to brake horsepower, brake horsepower having as one of its functions the revolutions of an engine, can be anything depending on the speed at which the engine is being operated. So if we take an engine turning at a speed of a thousand revolutions and we calculate through the horsepower formula that engine is developing a thousand brake horsepower and we say to the owner: "Well, your engine is developing a thousand brake horsepower. Therefore you have to have, say, a first-class engineer", it is quite possible an owner or operator would say: "Yes, but I propose to operate my engine at 800 and not a thousand revolutions, and this will bring it down to 800 horsepower, so I will not need a first-class engineer"—assuming that criterion. In that case the Board will find itself in all kinds of arguments with shipowners and engine manufacturers who will try to rate their engine in such a way it will fall under these various criteria, and thus enable them to get away from the carriage of certificated engineers of certain grades.

In order to overcome this, if we decide to go to brake horsepower, we will have to have arbitrary decisions by the Board as to what the actual horsepower of an engine is, irrespective of what the shipowners claim or what the engine manufacturer may claim on the basis they are going to run their engines at certain revolutions. We have tried to keep away from this because we know we will have a much quieter life if we can stay with the nominal horsepower.

If I may pass to the subsection 2 of the proposed amendment—

Senator REID: How many inspectors have you on the coast of British Columbia?

Mr. CUMYN: I would say we have about 10, sir.

In our investigation on the west coast it also came to our attention that due to the modern developments in marine engines manufacturers are turning out these days that turn at very high speed and develop comparatively high brake horsepower in relation to their nominal horsepower—that is to say, they are getting more power out of their engines per unit of cylinder volume—it has become possible for ship owners to fit to their smaller type tugs engines developing quite a high brake horsepower but coming under the 10 nominal horsepower which requires them to carry a certificated engineer. These tugs, by virtue of their greater brake horsepower capacity, are venturing into more exposed waters, so we felt that we should reduce this nominal horsepower limit of 10 down to eight so as to catch some of these engines that are developing

this high brake horsepower. When you get into this range of engine, in the eight to 10 nominal and the six to 1,000 brake horsepower, you find a wide variety of engines. Some are of a heavy-duty type, comparatively large, developing a low brake horsepower, and in fact most of the engines on the east coast are of this type. On the west coast you find engines of a more modern type turning at high speed and developing a high brake horsepower in relation to a low nominal horsepower.

So that we thought that we would have to put a 600 brake horsepower limit in the second amendment, because there are on the west coast a few old-fashioned types having a nominal of the class III less than 10 which develop 300 or 400 brake horsepower. The ships fitted with these engines have been operative for a number of years without certificated engineers, and we could not see the justification for suddenly bringing them under this amendment requiring them to carry a certificated engineer. This explains the 600 brake horsepower limit.

I would like to point out, Mr. Chairman, with respect to the statement made by marine engineers that what we are doing is increasing the danger to the operation of the tugs and to human life. In considering this matter, we know that the incidence of loss of life arising out of tugs which had sustained engine failure was extremely low, and that certainly was not sufficient to justify or warrant our not going ahead with these changes.

We also noted that American tugs operating in the Puget Sound area under coastguard regulations and having a gross tonnage under 200 are not required to be allowed to carry certain certificated engineers at all, irrespective of their horsepower. So we felt, having in mind that there is some competition between B.C. tugboat owners and the American tugboat owners in this area we should give some cognizance to this situation. I think, sir, that is all I have to say.

The CHAIRMAN: Thank you, Mr. Cumyn. Are there any questions?

Senator MOLSON: I understand your argument is in favour of retaining nominal horsepower; but while that would simplify some of your problems, would it not create others?

Mr. CUMYN: The only problem I can see is that the trade—the engineers, the shipowners, are unfamiliar with this, because the term used by engineering manufacturers is “brake” horse power. I also agree that it does not represent accurately the horse power developed by an engine; but, after all, how important is it that it should be? If you take an engine developing 500 brake horse power, and operate it with a third class engineer, where there is an engine developing 510 horse power, well, if you have a second class engineer, who is to say what will develop? An engine developing 510 horse power is that much more comprehensive and requires the higher type of engineer. So that, after all, the criterion we are using is surely a rough and ready criterion, and we find that the nominal horse power is close enough for this purpose.

Senator SMITH (*Kamloops*): I should like to come back to one of the last statements made by the witness referring to the matter of competition of B.C. towboat owners with the Americans. You say that the American boats under 200 tons do not require certificated engineers at all?

Mr. CUMYN: Yes, sir.

Senator SMITH (*Kamloops*): Then what justifies limiting the Canadian regulation to 150 tons? Did you give consideration to that competitive situation in arriving at that?

Mr. CUMYN: We gave due consideration to it, sir. There is some competition, not very much.

Senator SMITH (*Kamloops*): That is likely to be increased though, is it not?

Mr. CUMYN: Possibly. We are not entirely guided by the American regulations. We feel that we have our own engineers on the board of inspection who are quite competent, possibly even more so than the Americans, and have better judgment and we try to use our own judgment, having due regard to the judgment of other regulating agencies.

The CHAIRMAN: Are there any further questions? Thank you, Mr. Cumyn.

Mr. GREAVES: I should like to make one or two comments on what has been said, Mr. Chairman.

The CHAIRMAN: Mr. Greaves wants to make a few comments. Is the committee willing to hear him?

Mr. GREAVES: First of all, Mr. Chairman, Mr. Cumyn stated, as I understood him, that Mr. Beckett from his department went to British Columbia and went on board some of these vessels, and I understood him to say with a representative of the National Association of American Engineers. I believe we met with Mr. Beckett in the steamship inspection office, but we did not go on board any vessel with Mr. Beckett. My understanding was that Mr. Beckett went on a vessel around Vancouver harbour, which in my opinion is something different from going up to Kitimat or Alaska, or the west coast of Vancouver Island.

Secondly, there was some question that only 18 engineers would be involved in all of this. This we feel is not correct, because we show in the brief in one area, 18 engineer positions. If this proposed legislation goes through it will mean a much greater number than 18 engineers, it will mean something in the area of a figure between 200 and 300. For Wilmae Straits, as shown on page 12 of the brief, there were 20 engineers, and 18 of their jobs have already gone. That is only one company.

There is one other point, on the question of American coastguard regulations. I am not particularly familiar with all of it, but I do know that the masters down there on the tugs must have some engineering qualifications. They have what they call a line certificate, or something of that nature, that the master must have some experience, some technical knowledge of engines. It is not just that there is no one on board without any requirement of any knowledge whatsoever of marine engineering.

Senator SMITH (*Kamloops*): I was not quite clear on the reference by the witness to the engineers that have already been thrown out of work due to the obsolescence of certain towboats. I think you told us before that some of them have gone into other businesses, and so on. When you referred to a certain number of engineers being out of work, is that situation due entirely to obsolescence?

Mr. GREAVES: It is due almost entirely to the change that is proposed. Let me put it this way. The towboat owners have now been able to go out, or are going out, for design of vessels which in our opinion will circumvent the proposed legislation, by building vessels 7.8 nominal horse power, just below the 8 horse power mentioned in the proposed legislation, by getting rid of these older vessels and introducing new ships under the subsidy program, and steel vessels, and so forth. These people have done that.

Senator MOLSON: I wonder if the witness has any further comment to make on nominal horsepower?

Mr. GREAVES: My comment, Mr. Chairman, as far as nominal horsepower is concerned, is that as far back as 1875 Professor Jamieson felt that it was antiquated, and yet we are still using it so far as certificates are concerned. It has absolutely no relationship to horsepower. When a tail

shaft is designed it is designed having regard to the safety factors in the maximum output of the particular engine. We feel some system of this type should be used instead of nominal horsepower.

Senator MOLSON: Do you feel that the sophistication of an engine is a more important measure of the amount of attention it needs than this measure of nominal horsepower?

Mr. GREAVES: Yes, sir.

The CHAIRMAN: Are there any further questions of Mr. Greaves? Thank you, Mr. Greaves.

Mr. GREAVES: Thank you, Mr. Chairman.

Mr. LINDSAY: Mr. Chairman, I wonder if I might—

The CHAIRMAN: Mr. Lindsay, I think we would like such clarification as you give us on this great discrepancy that has appeared in the evidence. The engineers fear they will lose 200 jobs, and Mr. Cumyn tells us that no more than 18 will be lost. What is your view on that?

Mr. LINDSAY: Mr. Chairman and honourable senators, under steamship inspection on the British Columbia coast, to my knowledge, at the present time there are about 172 vessels. These vessels have jobs for 950 people. These are the figures we have. There are 950 jobs, and when you consider that each vessel has two crews to run it then there is a total of 1,900 employees of which 480 are engineers. I was a little wrong in my previous figures.

One thing I want to say is that to my knowledge on the British Columbia coast there has been a terrific change in the last five years. There is not an engineer unemployed today. There might be a less number of engineers on the small tug boats, but there is a larger number of vessels. The British Columbia ferries have taken a large number of engineers. Our company tried to get an engineer the other day and there was only one available, and he was a reject from many other companies. This is the problem. I do not think there is any unemployment problem being created by this, although we do not agree with the lowering down from ten to eight. It has not been mentioned that certain engineers would possibly be laid off on the ten to 15. If this other amendment goes through you will put a lot more engineers off, which will look after the engineers being displaced by the higher figures. We do not feel there is a problem, and we are not in favour of its retention. It is not necessary to make an unemployment problem out of this.

I would like to mention an example of what is happening in British Columbia right now. Our company alone has four new tugs under construction, and the tenders on a fifth one are to be in on Friday. The fifth tug is to be a 2,500 horsepower tug, 120 feet in length, with a gross tonnage of somewhere around 300 tons. I am not sure of the tonnage, but it will be high. That will certainly take at least two engineers.

We are building another tug of 96 feet which will be 18.2 nominal horsepower, or 1,300 brake horsepower. This tug will require two engineers.

This kind of thing is going on right down to the smaller class of tugs we are discussing here. We feel that there will still be lots of jobs for engineers.

We have a parallel situation on the west coast to that which you had on the east coast where, with the coming of the Seaway, all of these regulations were made obsolete. The same thing is happening on the British Columbia coast. No tugs have been built for years and years. We were using old wooden tugs which were re-engined. Now we are getting rid of this obsolete equipment and replacing it with new equipment.

One other thing I noticed in the engineers' brief is that they talked about training programs. In conjunction with the Engineers' Association the B.C. Towboat Owners' Association is providing through the Vancouver Vocational

School engineers' classes to enable engineers to upgrade their certificates so as to take into account hydraulics and electricity, and that type of thing. We are putting these classes on in conjunction with the engineers so that they may upgrade themselves and make themselves more useful on the boats they are serving on.

Senator FOURNIER (*Madawaska-Restigouche*): When one of these engineers is laid off on the ship who takes over his duties of maintaining the engines? Who replaces the engineer?

Mr. LINDSAY: There is not really any necessity for having an engineer at all on the new high-speed engines. The maintenance is done by the shore crew when the vessel comes into the dock. The engines are automatic. They are unattended, and they run year in and year out.

A new vessel that is being constructed on the B.C. coast right now is going to have an electronic device that will start the engine on the barge. There are many electronic devices that are going to be required—

Senator FOURNIER (*Madawaska-Restigouche*): I can see that in the future. You are ahead of me in your answer. What about the existing boats today? Are you going to change all the engines, and be prepared for this automation?

Mr. LINDSAY: The change has already taken place. It occurred in the last five years, and there are more changes coming.

Senator SMITH (*Queens-Shelburne*): I wonder if the witness is going to say anything about the safety side of this question. It seems to me that the chief concern of the department, and our chief concern on this question, is with respect to safety at sea. Have you any comments to make on that factor? We are interested in the employment angle, of course, but I think our prime objective is to look at the safety angle.

Mr. LINDSAY: I was brought up in the tug boat industry, Mr. Chairman. It is in my personal feeling today, having regard to the new class of steel vessels we are operating in the trade, that we have much safer vessels than we ever had before. We have better trained crews, and more experienced crews. Certainly, from our company's point of view, we have had less accidents and a much safer operation in the past five years than we ever had previously.

Senator MOLSON: Have you high speed engines in the vessels you are operating?

Mr. LINDSAY: Yes, that is correct. One of the boats mentioned here is one of our vessels. I am referring to *La Brise*. It has a high speed engine.

Senator MOLSON: Have you had many cases of engine failure?

Mr. LINDSAY: We have had no cases of engine failure away from port. By preventive maintenance we have picked up things here and there, but—

Senator MOLSON: I mean a failure at sea.

Mr. LINDSAY: No, sir.

Senator SMITH (*Kamloops*): Can you tell us what the average wages paid an engineer on an average tug boat of the class we are considering would be?

Mr. LINDSAY: I would suggest the wages would be about \$450 per month for working 15 days, 12 hours per day. Engineers work one day on and one day off, which means they work 15 days a month, 12 hours a day, and their wages are approximately \$450 a month. Maybe the Engineers' Association would have more accurate information. I think the wages range from \$550 down to \$400 per month.

Senator SMITH (*Kamloops*): Do the engineers as a class get year-round employment?

Mr. LINDSAY: The business on the west coast is steady day in and day out twelve months of the year. Most of the boats tie up for three days at Christmas.

Senator SMITH (*Kamloops*): What do you say about the suggestion that the owners in new construction are likely to go down to the 7.8 engines in order to circumvent the regulations?

Mr. LINDSAY: I do not think there is going to be any circumvention to get down from ten to eight. To be very honest about the subject, the problem here is that if we go down to eight nominal horsepower the engineers might say that on that type of vessel their sole duty is to sit in the engine room, and they will refuse to do any other kind of duty which they are presently doing in that class of vessel. There is no difference in pay scale for a certified or an uncertified engineer. We are going to hire the best man we can for a job, but we would like him to do a day's work for a day's pay, and not get to the point of being like a fireman on a locomotive. We do not want that type of operation. This is getting down to the basics of the operation.

Senator SMITH (*Kamloops*): That is a parallel case?

Mr. LINDSAY: Yes, in our estimation it is, sir.

The CHAIRMAN: Are there any more questions of Mr. Lindsay?

Honourable senators, we have had a very full discussion on section 4. I imagine before we reach any conclusions upon it we will wish to read the evidence when it is before us in printed form.

There are two things I think we should bear in mind. First of all, is there anybody else who wishes to make representations to us on section 4? If there is not, then I think we have had a very adequate discussion on that section.

The second question I wanted to ask was: Is there anybody else from British Columbia, or any of these gentlemen who have already given evidence from British Columbia, who are anxious to give evidence on any other section of the bill before they go home, because we want to accommodate them, and not bring them back unless it is absolutely necessary.

Mr. GREAVES: Mr. Bullock represents the masters and mates and I have Captain Barry with me. We would like to comment on the section, although we are not engineers, concerning the engineering on the ship.

The CHAIRMAN: On section 4?

Mr. GREAVES: Yes.

The CHAIRMAN: Mr. Bullock is secretary of the Canadian Merchant Service Guild.

Mr. BULLOCK: As we advised the secretary of your committee, Mr. Chairman, we have actually three items in which we are interested. That pertaining to certificates of competency, sections 114 and 116; section 115, engineer; and section 671 which has to do with the trading of Canadian ships in Canadian ports. Would it be convenient if we kept our remarks to section 115?

The CHAIRMAN: If you wish to go home.

Mr. BULLOCK: No, we are prepared to come back.

The CHAIRMAN: That is very good of you. Perhaps to keep things in order you might confine your remarks today to section 115. I think that would meet the convenience of the committee.

Senator SMITH (*Queens-Shelburne*): What page of the bill is that?

The CHAIRMAN: That is page 3, section 4, Senator Smith, subsections 1 and 2.

Mr. BULLOCK: It is not our intention to get into the engineering technicalities involved here, but we would like to comment about the position of one man who has not been mentioned here today. That happens to be the master in

charge of the ship. We would like to say now we do not want him to be the forgotten man here. We want you to know that every time someone is eliminated from the crew of a ship that puts more responsibility on the man in charge of that ship.

As things are going in the towing industry on the coast, it must be borne in mind we had ships at one time that had a crew, say, of eight, including the master. With the different machinery, and so on, it is down to seven or six. We had one ship not long ago concerning which the master found the steamship inspector had been down and said, "This ship can sail with five." If we keep on it is going to be just the master and mate on the ship, and I do not know who is going to handle the lines or anything else.

It is rather difficult for the master of a ship when, we will say, we are down to one chief engineer, and this man has been with the company for many years, and we say: "There is automation and you have a sealed-up engine practically and auxiliaries, and everything is looking after itself." The owner says: "You can use this man for something else, and we do not want him to sit down there all day." I have talked to masters, and they say: "You know, the only other thing I can ask that man to do is to handle the bridle or take a line. That man is over 60 years of age and has been with the company for years. That is not his work." We may want to eliminate engineers, but let us not kill it. It is a rather peculiar thing, the master is responsible for everything under the Shipping Act. It says at times that the owner is responsible too, but once that ship gets away from that wharf there is only one fellow responsible for that ship, the safety of life at sea and everything in this book; that is the master's responsibility.

All I can say is, I hope we will not forget him. When we continue to reduce crews, every time you take a man off that ship, especially if he is an engineer, you are taking his leading man off that ship. There are times when the master will confer with his engineer, who has been at sea quite a number of years, and they work together. What is happening here now, by this proposed legislation, is that we are going to make it possible to do away with more engineers. We say very emphatically we do not concur with the idea.

It is a rather peculiar thing too that this act argues with itself. We think the officials of the Department of Transport know that. Mr. Chairman, there is an item in here, section 407, and without reading it at length—

The CHAIRMAN: Section 407 of the act?

Mr. BULLOCK: Yes, it is on page 178 of the copy I have, Mr. Chairman. It goes on to say that the ship shall be operated with an efficient and sufficient crew. This is what the act says. The master is responsible for the operation of that ship. Once that ship is away from that wharf he is the man. So we tell the master of the ship: "We are going to reduce your crew and take away one of your engineers"—"or your engineer"—however it fits. We should also tell him: "Don't forget section 407 says you are responsible, and we are going to further reduce your crew." We do not think that is the proper way to run a steamboat. We think you are getting crews down now to a minimum, and we do not think it is in keeping with the future of the industry, especially on our west coast, where nothing is going to be gained by continuing to take away from the service of the master the services of an experienced engineer. You might say sometimes: "Oh well, you are not far from home." I wonder if some of you gentlemen have been in the Johnstone Strait on a good dark night, which in some places is only three or four miles across.

It is a very fine feeling to be able to say, "I have an engineer around here somewhere in case anything goes wrong with this pack." We have terrific horsepower on the ships and a line of barges that cost three-quarters of a million dollars to \$1 million, and a terrific cargo that a ship could not carry.

We have done away with the coasting traders. We have the tow boats doing this business with terrific power, and all I ask is: remember what is on the end of that line, and there are no brakes on it.

That is what we are asking for. We trust the committee will just remember the fellow up there in charge of the ship—the master. We think there is a limit to what can be done for efficient operation of any ship, and we do trust you will remember that the engineer is at the heart of the ship, the power plant, and we would like to retain his services. We think even within the industry, although they do not want to come out and say so, you must have power, and it must be looked after. There is a limit to it, and we would like to keep our engineers. I think that is all I wish to say, Mr. Chairman.

The CHAIRMAN: Thank you, Mr. Bullock.

I was reading section 407 of the Shipping Act to which you referred, and it reads as follows:

(1) Every steamship registered in Canada shall be manned with a crew sufficient and efficient from the point of view of safety of life for the purpose of her intended voyage, and shall, during such voyage, be kept so manned.

Now, when I refer to section 4 of the proposed bill on page 3, it does leave this question as to whether or not there should be an engineer in any particular case, to the discretion of the minister. It says:

. . . the minister may, subject to such conditions that he may prescribe, exempt it from the requirements . . .

I would think if the minister, who in effect would be the department, in any case, thought that with the absence of an engineer any tug would not be sufficiently manned he would not allow that engineer to be disposed with.

Mr. BULLOCK: We run into what we call "Pierhead jumps." We have to get there in a hurry. This comes almost in the same category. We will say a man is going down to a ship and that ship is sailing at noon today. It goes down, everything is all right, and he takes his mate, and so on, and there are six or seven men. He is told that there is only one engineer, and he asks why, and is told that under the act you don't have to carry them. He says, "Well, I am off to the Charlotte Islands, and I want two engineers on." What does the master do now? He has to leave the ship at this wharf, I suppose, and go down to Ottawa to see the minister or his representative, and say, "Where is my engineer?" Well, this packet is already to sail a few hundred miles up the coast.

The CHAIRMAN: He does not need to come to Ottawa, surely? We were told by Mr. Cumyn that they have at least ten inspectors on the British Columbia coast.

Mr. BULLOCK: Well, if we have that understanding with the Department of Transport, all we have to do is to go to the inspector and say, "Where is the engineer?" But let us not forget about the master. The act says he is responsible for safety of life at sea, and tells you everything about it.

Senator MOLSON: Just before Mr. Bullock steps down, I wonder, with respect to the west coast, if we could have an explanation of "home-trade voyage class III or an inland voyage class II", which I think is too generally defined?

Mr. BULLOCK: I don't have that in front of me, Mr. Chairman. I think Mr. Cumyn would have it.

The CHAIRMAN: Would you tell us what is involved in those words "home-trade voyage class III or an inland voyage class II" Mr. Cumyn, with respect to British Columbia coast?

Mr. CUMYN: Home trade voyage class III is a voyage that does not take the ship more than 20 miles from land, and 100 miles between ports. Inland voyage class II is limited to 15 miles to land.

The CHAIRMAN: Thank you. Does that answer your question, Senator Molson?

Senator SMITH (*Queens-Shelburne*): I would like to ask Mr. Bullock whether the subject of work load, in so far as the captain is concerned, and indeed others on the ship, forms part of the discussions he has from time to time in regard to collective bargaining?

Mr. BULLOCK: Yes, sir. You mentioned the word collective bargaining. Let us say the engineer perhaps has been eliminated from the crew. Now you have wheelhouse control. The controls show air pressures, temperatures, and so on. The master does six to twelve twice a day, and is called out at other times by the mate as required. The mate does the twelve to six. These gauges are there and are the responsibility of the man at that wheelhouse to see that this powerhouse is doing its proper work.

It is a very fine thing to be out in the Gulf of Georgia at two o'clock in the morning, and if you are standing at the wheelhouse you don't know whether there is a foot of water down there or anything else; and this happens sometimes. There is nobody down there. The responsibility is concentrated now in the wheelhouse. Well, it has been done on large, deep water ships where they have wheelhouse control. The operation of propellers, and so on. They still have their engineers, yes, sir.

Senator SMITH (*Queens-Shelburne*): So this does form part of the discussion you are now taking up with the shipowners?

Mr. BULLOCK: Oh, very much so.

Senator SMITH (*Queens-Shelburne*): The act refers to steamships. I thought we had passed the steamship age. Does that include diesels?

Mr. BULLOCK: All ships are steamships, it does not matter whether they are diesels or what they are.

The CHAIRMAN: The word "steamship" in the act is defined as any ship propelled by machinery not coming within the definition of a sailing ship. Thank you, Mr. Bullock.

Those are all the representatives. Does anyone wish to make any comment with respect to section 4? Have we heard everybody from British Columbia who wants to go home? Then how shall we now proceed; shall we proceed to hear other witnesses who may have comments on other sections of the bill? There is one gentleman here, Mr. Bain, Vice-President of Planning and Development of the Upper Lakes shipping Company. I believe he wanted to be heard today.

Mr. George F. Bain, Vice President, Planning and Development, Upper Lakes Shipping Limited:

The CHAIRMAN: What sections of the bill do you wish to discuss, Mr. Bain?

Mr. BAIN: The section concerning the coasting trade, which is section 35, Mr. Chairman.

The CHAIRMAN: That is the section which purports to limit coastal trade within Canada, between the Upper Lakes and the Anticosti Island, to ships of Canadian registry.

Mr. BAIN: Yes, Mr. Chairman. The Upper Lakes Shipping Company acts as the agent for one of the only Canadian flag help carriers which is now making deep sea voyages, and we have also built a new type coal ship which will

be classed as deep sea voyages, and it will be carrying full from Cape Breton to Lake Ontario. That ship, plus the one for which we are agents and another ship now being built, will be ocean going ships, and will carry the Canadian flag and will be on the Canadian register and manned by Canadian crews.

At the same time my company is a substantial operator of Great Lakes vessels. We welcome the provisions of section 35 which limit the coasting trade of Canada westward of this line, which is drawn from roughly across the end of Anticosti Island, reserving that trade for Canadian ships. What we are doing now, and what one other shipping company in the maritimes is doing, will produce for the first time since Mr. Banks and the S.I.U. drove Canadian shipping off the high seas, Canadian ships carrying bulk cargoes on the high seas under the Canadian flag, giving the same flexibility of operation as now enjoyed by the United Kingdom ships trading between Canadian ports. That is a normal competitive situation. With the support, help and encouragement, I think, of all officials in a position to influence this venture, we can in fact compete fairly successfully and re-establish the Canadian flag as a factor on certain specialized vessels. That is a normal competitive situation. With the support, help and encouragement of all officials in a position of influence in this venture I think that we can operate fairly competitively, and raise the Canadian flag on certain specialized voyages.

Senator SMITH (*Queens-Shelburne*): What is the other company in the Maritimes that you just passed by?

Mr. BAIN: I do not know the name of the company, but it is building a large bulk carrier in St. John's drydock which is intended to operate in the international trades.

The ships we are now building—both the one that has been built and the other which is under construction—could have been built in United Kingdom yards. Such ships could have been built for the Great Lakes trades in Commonwealth countries, and we could have operated under the United Kingdom flag in the "across-the-Anticosti-line" trade. These ships have been built in Canada partly as a result of Government policy in instituting shipbuilding subsidies. This puts us into direct competition with any United Kingdom ships which are still allowed to enter the Canadian trade between Canadian ports under this bill.

Such ships are, in fact, duty paid ships. The duty is paid either by the voyage or in a lump sum, which enables British built ships to operate in Canadian waters.

In building these two Canadian bulk carriers we are locked into the Canadian flag under the provisions of the covenant which says that we must keep them on the Canadian register for the first five years. They are in competition with United Kingdom ships which may be manned by United Kingdom crews, Hong Kong Chinese crews or Cayman Island crews, on voyages between Canadian ports, for example, from the Lakehead to Halifax with grain; from Newfoundland to Montreal with gypsum; from Seven Islands to Sydney with iron ore; or from Wabana to Sydney with iron ore.

In the future we will rely upon these sorts of trades to give us the taxable profits which our commercial operations require in order to maintain these ships in Canada as profitable assets. But, if we are exposed to the unfair competition of foreign trade—that is, United Kingdom ships in the Canada-to-Canada run in the Gulf of St. Lawrence—the result will be a lack of the profits for us and for the Canadian treasury, and it will clearly expose the anomalous situation where Canadian-built ships, built to the extent of 40 per cent with Government money, cannot operate successfully because of a legal "drawing-of-a-line" on a map.

If this situation comes about I would like to put it on record that we will be back asking the Government and Parliament either to allow us to escape the five-year flag covenant on these Canadian-built ships—that is, that we should be released from this covenant—or that the Minister of Transport be put in such a position as to be able either to license this competition or, by making the appropriate changes in the regulations which affect us for tax purposes, to put us in such a position that we will in fact be able to compete against this type of competition. We believe that the Canadian Merchant Marine on the deep seas will tend to grow as it is given the opportunity, and particularly in these specialized trades from inside the Great Lakes to outside the Great Lakes.

The argument has been made before this committee in its previous sittings that the Maritimes and Newfoundland should always continue to be able to use United Kingdom ships for moving between say, Montreal and the Great Lakes and their ports, because costs are less.

The large bulk products movements should be carefully distinguished from general cargo movements. Bulk products move out of the Atlantic provinces to Montreal, or into the Great Lakes, or to Sydney. Today much of this movement is in fact carried out in Canadian ships that are returning to the Lakehead after having delivered grain to Halifax. As our other large ships come into existence this will be the case more and more, except where United Kingdom ships engage us in cut-throat and unfair competition. Wherever the competition to Canadian flag ships is the result of sort of hit-and-run tactics we would want the minister to act in the Canadian public interest to restore the competitive situation.

This situation could arise, for example, from United Kingdom ships taking gypsum or coal cargoes into the Great Lakes at ridiculously low rates, their journey having been paid by the Russians who have chartered the ship for an outbound grain cargo. It could arise from the existence of corporate ties between shipper and ship where from notional rates of freight are used, and where entry into the trade is not based on economic considerations at all.

That is all I have to say, sir.

The CHAIRMAN: To summarize what you have said, Mr. Bain, you approve of section 35 but you think it should go further, and some day in the future you may come back and ask that it be extended?

Mr. BAIN: Precisely.

The CHAIRMAN: Are there any questions of Mr. Bain?

Senator SMITH (*Queens-Shelburne*): One of the things you are now asking for is the inclusion in this new proposal of shipping between ports of the Atlantic provinces and the inland water ports? In other words, if there is a British-owned ship which is presently carrying newsprint from Newfoundland to Toronto that will be continued by this legislation?

Mr. BAIN: Yes, it will.

Senator SMITH (*Queens-Shelburne*): And what you are saying is that the time is coming when you will ask that even that be excluded from our inland coastal trade?

Mr. BAIN: In that specific case I think it is only with respect to the situation where we are not even allowed to compete, or able to get into the trade. We should be permitted to go to the company and say: "Look, we can do this job more efficiently and cheaper than you can with your United Kingdom ship". We can do some of these things today. In the specific situation you mention the ship would be carrying newsprint into the Great Lakes at rates of freight which were not set by economic conditions. That would be one case...

Senator SMITH (*Queens-Shelburne*): Why would that be true? Why would they want to set rates like that?

Mr. BAIN: I think the rates at which products are bought and sold as between divisions of a company, and rates at which raw materials are moved in and out of the corporate structure, are almost completely arbitrary. Cost accountants can do amazing things in order to make one division make a profit and another division make a loss.

Senator SMITH (*Queens-Shelburne*): My observation is that so far as the newsprint industry is concerned they are making so much money in the operation of the newsprint mills that they would be glad to have their subsidiary companies charge them more for freight.

Mr. BAIN: I would not want to say that, sir—especially if one holds some paper stocks.

Senator LAMBERT: Is not what you have expressed today similar to the position that was expressed by the Great Lakes steamship group at the time the waterway was being opened?

Mr. BAIN: With respect to what I have said...

Senator LAMBERT: This is with respect to the exclusion of the British ships.

Mr. BAIN: Yes, sir. Since then there have been some technological changes which make it possible for Canadian ships to move on the high seas trades between Canadian ports, and successfully compete with overseas ships.

Senator LAMBERT: Are any of the other steamship lines identified with the Great Lakes, such as Paterson and others, of the same view that you have expressed?

Mr. BAIN: I am sorry, sir, but I cannot say. There are some Canadian shipping firms which operate ships in the Gulf of St. Lawrence between Canadian ports under the Canadian flag—tankers, for example—and there are some small pulpwood ships. I cannot speak for these people, but if I were they I would be inclined to be somewhat worried about the fact that United Kingdom ships can enter into that trade.

Senator LAMBERT: I think this point raises a very important factor with respect to international trading facilities. You have dealt with it, apparently, from the point of view of the regulations on the Great Lakes themselves?

Mr. BAIN: Yes, sir.

The CHAIRMAN: Thank you, Mr. Bain; there are no further questions.

Honourable senators, as far as I can tell from my list the only witnesses present from whom we have not heard are Mr. Lowrey, the President of Canadian Shipbuilding and Engineering Limited of Collingwood, and the three gentlemen representing the Canadian Bar Association, Mr. Merriam, the secretary, who has with him Mr. Mackay and Mr. Hyndman who are lawyers from Montreal.

Senator REID: Are those the final witnesses?

The CHAIRMAN: These are the only ones that we have not heard from so far. Shall we ask Mr. Lowrey to give us his presentation?

Hon. SENATORS: Agreed.

The CHAIRMAN: Mr. Lowrey is the President of the Canadian Shipbuilding and Engineering Limited of Collingwood, Ontario. Perhaps it would be convenient if you could tell us what sections of the bill you propose to discuss, Mr. Lowrey?

Mr. R. Lowrey, President, Canadian Shipbuilding and Engineering Limited: Mr. Chairman, honourable senators, I have no prepared brief, but I do wish to comment on the same section as Mr. Bain.

The CHAIRMAN: Section 35?

Mr. LOWREY: Yes. To clarify my own position, I would say that I am president of Canadian Shipbuilding and Engineering Limited, who own and operate three shipyards on the Great Lakes, at Port Arthur, Collingwood and Kingston. I am also president of Davie Shipbuilding Limited at Lauzon, Quebec; and these four shipyards are the largest shipbuilding aggregation in Canada and produce something over 50 per cent of all ships built in Canada.

These shipyards are totally owned by Canada Steamship Lines, of which I am vice-president. I am vice-president of the Canadian Shipbuilding and Ship Repairing Association; and Canada Steamship Lines are, of course, a very effective member of the Dominion Marine Association. In connection with Mr. Bain's comments, I would say that both these organizations—that is, the Canadian Shipbuilding and Ship Repairing Association and the Dominion Marine Association—were and, so far as I am aware, still are in favour of the coasting trade of Canada being totally restricted, including the west coast, east coast and Maritimes.

However, when the Canadian Government proposed the restriction of the coasting trade should be limited roughly to the area bounded by the Anticosti Island situation we decided that half a loaf was better than none, and the problems associated with such limitation are very much less than the problems associated with its extension to other areas, primarily due to the fact that historically it has been Canadian ships which have been operating within the present proposed areas, whereas the areas outside the present proposed areas have had a much larger participation by vessels of British non-Canadian registry. So we do concur with Mr. Bain's concept that the present regulations do not go far enough, but we would not like to prejudice any passing of the present regulations by the consideration of extension at this time.

With regard to section 35 we felt that there was considerable ambiguity in the wording of section 35 with regard to whether it did, in fact, say what it meant to say. Before we knew of this committee meeting we had considered this matter, we had taken legal advice on it, and I had taken the matter to Mr. Baldwin, the deputy minister. I pointed out to him we were not proposing any change in the intent of the wording, but we felt the wording was not clear. Mr. Baldwin felt with me that the wording was not clear, and said that he would take legal advice on the matter. This morning I understand from the counsel for the Department of Transport that they did concur in our doubts, and there is probably a proposal to be put to the committee with regard to a change in the wording. So, apart from that particular point, I will not comment further on that area.

The only other question that we are concerned about is the fact that no matter what the regulations say in the Canada Shipping Act, as you yourself referred to, sir, earlier this morning, there is a clause which refers to the discretion of the Minister of Transport. As we see it, this act, if passed, will limit the operation of ships in the Canadian coasting trade within these limits to Canadian registered vessels. In reading some of the previous Hansards on Senate hearings we have observed some of the senators have been in some doubt as to what in fact is intended.

When this act is passed, as we hope it will be, it will in no way limit the ability or right of any vessels, British or otherwise, from trading into Montreal and dropping cargo, going to Toronto and dropping cargo, going to the head of the Lakes or Chicago and dropping cargo, or picking up cargo on the way back. It merely limits the carriage of goods from one part of Canada to another. The fact however is this, that since the statement was made in about 1962 that it was the Government's intention to introduce this act, many ship owners have applied to the Canadian Government for permission to import very old ships into Canada, to obtain Canadian registry and to operate them on the Canadian coasts. Many of these ships are over 50 years of age.

The Canadian Government has denied these ships Canadian registry, and they have therefore simply gone and put the vessels on Bermudan or any other British Commonwealth registry, and these vessels are now operating within the Great Lakes under precisely the same conditions as would have applied had the Canadian Government agreed to give them this permission.

We believe it is not in the interests of the Canadian shipping or ship-building industries to encourage the use of broken-down, 50-year old ships in our trade when many Canadian operators—such as the company represented by Mr. Bain, Paterson Steamships, Scott Mischeer, Canada Steamship Lines and others—have spent many millions of dollars over the past years having built in Canada some of the finest ships in existence. We feel that when this act is passed—as we hope it will be—these ships that have gone on to other Commonwealth registries will come along and under some sort of grandfather clause arrangement say: “We are now carrying coal from Port Colborne to Toronto, or elsewhere on the Great Lakes, with these broken-down old tubs. Since we are doing this, give us permission to continue doing so.”

I can now only speak for the Canadian Shipbuilding Association and Canada Steamship Lines themselves. We believe that while the minister may feel inclined to give special consideration to British companies who have historically been operating in the Canadian coasting trade, that no consideration whatever should be given to the companies who have deliberately flouted the wishes and the intention of the Canadian Government by buying old vessels and putting them on British registry since the Minister of Transport first made his statement to the house of his intention to introduce the legislation which is now under consideration.

The CHAIRMAN: Did you read the evidence given before this committee by the minister at its last meeting on the 5th May?

Mr. LOWREY: I have read much of it, sir.

The CHAIRMAN: Because he referred to that point, about some of these very old vessels that had been put on Bermudan registry.

Mr. LOWREY: Yes.

The CHAIRMAN: On page 17 he said:

... One of the simple devices we use is to forbid ships over a certain age from being put on Canadian registry, because we feel the risk of them being unseaworthy is rather great. We feel that it is undesirable to keep them in this kind of trade, and that it would be undercutting laws of our own if we permitted some of the practices which have shown some signs of developing in recent times.

Senator BAIRD: I presume that these old tubs have passed all the tests of seaworthiness, insurance, and so on?

The CHAIRMAN: I asked the minister that question at our last meeting. I said: “Surely, Mr. Minister, you could prevent unseaworthy ships operating in the Great Lakes?”

His reply was this, on page 17:

Yes, unseaworthy ships, but we would perhaps find it difficult, if it is not illegal for shipping under registry of some other country, to make the kind of investigations we would in the case of our own ships.

Mr. LOWREY: I myself have not used the term “unseaworthy”. I believe within the limits of the regulations presently in force one cannot say these vessels are unseaworthy.

The CHAIRMAN: In a technical sense?

Mr. LOWREY: Yes, sir, but the regulation mentioned by the minister is, in effect—well, it is not a regulation, but his attitude towards the importation of ships is such that for many years there have not been old ships allowed to come on Canadian registry, and we have a few complaints about this factor.

We are not really making a complaint, but the fear we have is that people who are presently on these British registries will say: "Don't put us out of business by the introduction of this legislation." We feel with regard to some British companies that have been operating on the Canadian coast and rendering a good service for 50 years, or something, that maybe some consideration ought to be given to them; but we feel no consideration ought to be given to people who have put their vessels on Bermudan registry, since the Government announced its intention to reduce trade, on the basis of a sort of grandfather clause. Our objection is on the ground the Canadian Government would be behaving illogically because we have at present a ship-building subsidy especially designed to encourage the building of new modern vessels in Canada which will contribute something to Canada's future in the shipping industry. But a view to changing patterns on the Great Lakes is obtained when you consider that certain vessels, like self-loaders that are over 50 years of age, and which were built in the United States, have become available for something like \$50,000. This is what made them attractive. These are operating in competition with the Canadian vessels, built in Canada, and we have been sorely tempted ourselves to go into this but we don't think it is the right thing to do. We have resisted temptation. To some extent we did so because we did not want to be prejudiced, and I wanted to be able to come here today with clean hands.

We have heard a lot this morning about captains and chief engineers, and we cannot get away from the aspect of competition. This is how we live, by meeting competition. I may say that I myself have not been tempted because so far as my advice to the companies is concerned I do not think it is good business to buy these old vessels. But we do know that there could be quite a temptation to do this, and we think it is not right, and we think the companies that have done this since the regulations were proposed should not receive any sympathetic treatment. I don't quite know how this fits in with the regulations, but we have made our opinions known to Mr. Pickersgill by letter, and he has promised to take cognizance of them.

The CHAIRMAN: He seems to have this situation in mind from his evidence before us the other day.

Mr. LOWREY: We felt we would like to bring it also to the attention of this committee.

Senator POWER: Do we understand what you would propose would be some phraseology in the statute itself which would prohibit the use of these vessels you talk about rather than leave it to the discretion of the minister?

Mr. LOWREY: I think in the act as written it says that only vessels of Canadian registry can do this. But the Canada Shipping Act says no vessel without the permission of the minister may be registered in Canada. We felt the members of the Senate committee might at least pass on a recommendation to the minister that when any such overtures were made he would not look at them sympathetically.

Senator POWER: We could criticize him afterwards if he does not do it in the right way, but I doubt if we can advise him in advance.

Mr. LOWREY: One of the previous ministers of transport, Mr. Balcer, did make a statement in the house that it was his intention, and in fact he stated it categorically in the house, that any vessels going on to British registry after he made his original statement would not be allowed to be transferred. However, I felt I ought to bring this question up.

The CHAIRMAN: Is there any further question of Mr. Lowrey? Thank you, Mr. Lowrey.

Mr. LOWREY: May I pass a comment on nominal horsepower and brake horsepower. In fact I agree fully with what everyone said this morning. A nominal horsepower does not mean anything that an engineer can check or get at, but brake horsepower means many things. When one is purchasing a diesel engine we have to have our engineers examine the quotation and specifications very carefully because there is no international method of computing the brake horsepower of machinery.

So apart from the difficulty Mr. Cumyn looked at there would be involved the setting up of a comprehensive system of specifications as to what should be measured to get the brake horsepower. The real problem is to find a parameter. One could perhaps use the height or weight of the engine, but the real point is the capacity of the engine. One parameter is as good as any other.

The CHAIRMAN: You have no objection to the department's method of calculating horsepower?

Mr. LOWREY: I doubt if it is a good measure, but I also doubt if I can find a better one.

Senator REID: I move the adjournment. I have been here 3½ hours.

The CHAIRMAN: The only other witnesses are members of the Canadian Bar Association. Gentlemen, how long do you think it would take?

Mr. Ronald C. Merriam, Secretary, Canadian Bar Association: A very short time, no more than five minutes.

The CHAIRMAN: We could of course meet at two o'clock if necessary.

Mr. MERRIAM: We could dispose of the matter in five minutes.

The CHAIRMAN: The gentlemen representing the Canadian Bar Association are Mr. Merriam, the secretary, Mr. Kenneth C. Mackay, Montreal, and Mr. A. S. Hyndman.

Who is going to act as your spokesman?

Mr. MERRIAM: Mr. Hyndman.

The CHAIRMAN: I know Mr. Hyndman, who is a very well known lawyer with a very large firm of lawyers in Montreal who knows a great deal about the shipping business.

Mr. A. S. Hyndman, Canadian Bar Association: Mr. Chairman, honourable senators, may I say first that the Canadian Bar Association, or in any event its maritime subsection, which we represent, appreciates very much the opportunity of being here and of having been invited by your committee of the Senate to present its views. It has been a matter which we have fought for a number of years to have the opportunity of giving consideration to legislation affecting shipping interests. This is particularly so in matters which are or which might become of more interest where limitation is involved, and the interpretation of statutes. The sections of the bill with which we are most concerned are those sections relating to limitation of liability, which in turn are sections which stem from the Brussels Convention of 1957 to which Canada was a signatory.

The CHAIRMAN: With which particular sections are you dealing?

Mr. HYNDMAN: I am dealing, Mr. Chairman, with clauses 31 to 34, which are amendments to sections 658, 659, 661 and 663 of the Canada Shipping Act.

The CHAIRMAN: These stem from the international convention relating to limitation of liability in 1957?

Mr. HYNDMAN: Yes, and in turn they stem from earlier conventions to the same effect. Some of the provisions of the Brussels Convention were implemented in the amendments to the act in 1961. At that time the maritime section of the Canadian Bar Association felt very strongly there should be a more ample implementation which has now come about.

However there are two points I should make. First of all we are strongly in favour of the proposed amendments to the act dealing with limitation of liability, but there are two points which may be taken as points of information or points of comment. The first of these relates to section 659(c).

The CHAIRMAN: That is section 32 of the bill?

Mr. HYNDMAN: Section 32. In that section or clause 32 the word "agent" is added in paragraph 1 (c). It says "the manager, operator or agent—". The purpose of the act is to extend the protection of limitation not only to managers and operators but to the agent. Our concern is in the definition of the word "agent", and in what circumstances that word was put into the statute. The Brussels Convention according to the note on the opposite page on the draft bill, Bill S-7, says that "the purpose of this amendment is to extend to ships' agents the privilege of limitation in cases where agents are by statute placed in the same position as owners in connection with damage caused by ships." It is a point of information as to what is intended by the word, to what statute reference is being made, and how an agent could become liable in the same way as an owner where the limitation provision might be made applicable.

The CHAIRMAN: There is no definition of agent in the Act itself.

Mr. HYNDMAN: No, there is not. The wording of the convention which perhaps brought this about is given in paragraph (c) and will be found in British Shipping Laws, volume 4, Stevens, 11th edition, 1961—Marsden. These are matters which we could discuss with the Solicitor's Department of the Department of Transport.

The CHAIRMAN: You could take up with Mr. Macgillivray, who is here now, and if he is agreeable you could make a suggestion to us.

Mr. HYNDMAN: Yes. The second point, in regard to the Brussels Convention of 1957, extends the right of limitation. It will be found in Article 1(c).

In the United Kingdom Act which is known as the Merchant Shipping (Liabilities of shipowners and others) Act, 1958, that provision of the Brussels Convention appears in sub-section (2) (a) of Section 2, where again the right to limit is extended "in connection with the raising, removal or destruction of any ship which is sunk, stranded or abandoned or of anything on board such a ship". Then similarly in sub-section 2(b), with respect to basins, navigable waterways and so forth. It is our submission that inasmuch as Canada is a signatory to the Brussels Convention and inasmuch as many of the major or few of the other major provisions of the Act even now are in process of being implemented in the Canada Shipping Act, these provisions as well should be considered and possibly added to the Canada Shipping Act.

The CHAIRMAN: Is there any particular section to which you wish to refer?

Mr. HYNDMAN: This would not be an amendment to any one particular section. This would be a new section which would come within these sections.

The CHAIRMAN: That also seems to be a technical matter you might discuss with Mr. Macgillivray.

Mr. HYNDMAN: I mentioned it here because I regard it more as a matter of principle than as a technical matter, as to whether that right should be extended. A letter or brief can be submitted after consultation with Mr. Macgillivray, should that be necessary.

The CHAIRMAN: This is the best way to deal with these two technical questions.

Mr. HYNDMAN: There are other minor questions of drafting but we can take them up with him also as they are matters of interpretation.

The CHAIRMAN: Have you discussed them with him?

Mr. HYNDMAN: We intend to do so.

The CHAIRMAN: Thank you very much.

Whereupon the Committee adjourned.



Second Session—Twenty-sixth Parliament

1964

THE SENATE OF CANADA

PROCEEDINGS
OF THE
STANDING COMMITTEE ON

TRANSPORT AND COMMUNICATIONS

To whom was referred the
Bill S-7, intituled: An Act to amend the
Canada Shipping Act.

The Honourable A. K. HUGESSEN, *Chairman.*

THURSDAY, MAY 28, 1964

No. 3

WITNESSES:

Mr. J. R. Baldwin, Deputy Minister of Transport; Mr. W. S. G. Morrison, Superintendent, Nautical Examinations, Department of Transport; Mr. R. R. MacGillivray, Assistant Counsel, Department of Transport; Mr. H. Stavenes, President, United Fishermen and Allied Workers Union; Mr. G. F. Bullock, Secretary, Canadian Merchant Service Guild; Mr. C. Gordon O'Brien, General Manager, Fisheries Council of Canada.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1964

THE STANDING COMMITTEE
on
TRANSPORT AND COMMUNICATIONS

The Honourable
ADRIAN K. HUGESSEN
Chairman

The Honourable Senators

Baird,	Macdonald (<i>Brantford</i>),
Beaubien (<i>Provencher</i>),	McCutcheon,
Bouffard,	McGrand,
Bradley,	McKeen,
Buchanan,	McLean,
Connolly (<i>Halifax North</i>),	Methot,
Croll,	Molson,
Dessureault,	Monette,
Dupuis,	Paterson,
Farris,	Pearson,
Gelinas,	Phillips,
Fournier (<i>Madwaska-Restigouche</i>),	Power,
Gershaw,	Quart,
Gouin,	Reid,
Haig,	Robertson (<i>Shelburne</i>),
Hayden,	Roebuck,
Hollett,	Smith (<i>Kamloops</i>),
Horner,	Smith (<i>Queens-Shelburne</i>),
Hugessen,	Stambaugh,
Isnor,	Taylor (<i>Westmorland</i>),
Jodoin,	Thorvaldson,
Kinley,	Venoit,
Lambert,	Vien,
Lang,	Welch,
Lefrançois,	Woodrow—(50).

Ex officio members

Brooks,
Connolly (*Ottawa West*).

(Quorum 9)

ORDER OF REFERENCE

Extract from the Minutes of the Proceedings of the Senate, Wednesday, March 18th, 1964.

"Pursuant to the Order of the Day, the Senate resumed the debate on the motion of the Honourable Senator Bouffard, seconded by the Honourable Senator Beaubien (Provencher), for second reading of the Bill S-7, intituled: "An Act to amend the Canada Shipping Act".

After debate, and—

The question being put on the motion, it was—

Resolved in the affirmative.

The Bill was then read the second time.

The Honourable Senator Bouffard moved, seconded by the Honourable Senator Gouin, that the Bill be referred to the Standing Committee on Transport and Communications.

The question being put on the motion, it was—

Resolved in the affirmative."

J. F. MacNEILL,
Clerk of the Senate.

MINUTES OF PROCEEDINGS

THURSDAY, May 28, 1964.

Pursuant to adjournment and notice the Standing Committee on Transport and Communications met this day at 10.00 a.m.

Present: The Honourable Senators: Hugessen (*Chairman*), Baird, Beaubien (*Provencher*), Bradley, Connolly (*Halifax North*), Fournier (*Madawaska-Restigouche*), Hayden, Hollett, Kinley, McLean, Molson, Power, Reid, Smith (*Kamloops*), Smith (*Queens-Shelburne*), Stambaugh, Taylor (*Westmorland*), Veniot and Woodrow.—(19)

In attendance: Mr. E. Russell Hopkins, Law Clerk and Parliamentary Counsel.

Consideration of Bill S-7, "An Act to amend the Canada Shipping Act", was resumed.

The following witnesses were heard:

H. Stavenes, President, United Fishermen and Allied Workers Union.

R. R. MacGillivray, Assistant Counsel, Department of Transport.

W. S. G. Morrison, Superintendent, Nautical Examinations, Department of Transport.

G. F. Bullock, Secretary, Canadian Merchant Service Guild.

C. Gordon O'Brien, General Manager, Fisheries Council of Canada.

J. R. Baldwin, Deputy Minister of Transport.

At 12.00 noon the Committee adjourned until Thursday, June 4th, 1964 at 10.00 a.m.

Attest:

F. A. Jackson,
Clerk of the Committee.

THE SENATE

THE STANDING COMMITTEE ON TRANSPORT AND COMMUNICATIONS EVIDENCE

OTTAWA, THURSDAY, May 28, 1964.

The Standing Committee on Transport and Communications to which was referred Bill S-7, to amend the Canada Shipping Act, met this day at 10 a.m. Senator A. K. HUGESSEN (*Chairman*), in the Chair.

The CHAIRMAN: Honourable senators, I see a quorum, and I ask the committee to come to order. We are resuming our consideration of Bill S-7.

We have with us today from the Department of Transport, beginning with Mr. J. R. Baldwin the Deputy Minister, the same witnesses that we had the last time, and the same advisors in attendance. I do not propose to read their names to you. Mr. Cumyn is unfortunately not here. I mentioned last week that he has had to go to Europe. Otherwise, the list is the same.

One association which wished to make representations to us could not appear last week, the United Fishermen and Allied Workers' Union of Vancouver. They were sent notice of this meeting and have come here, in the person of Mr. Stavenes the President. A brief which they propose to submit has just been circulated to you. They are the only new witnesses.

We have with us again Mr. Bullock, the Secretary of the Canadian Merchant Service Guild of Vancouver, accompanied by Captain Barry. We also have with us Mr. O'Brien of the Canadian Fisheries Board, who wishes to make a statement later on.

I suggest we proceed by hearing the brief of the United Fishermen and Allied Workers' Union.

Hon. SENATORS: Agreed.

Mr. H. Stavenes, President, United Fishermen and Allied Workers' Union: Mr. Chairman and honourable senators, as President of the United Fishermen and Allied Workers' Union, I am appearing to present the views of our members in the matter of certification of Masters and mates on fishing vessels of over 25 tons gross tonnage, and on other amendments to the Act affecting fishermen.

For the sake of clarity and some background history, I would like to refer back to the end of March of this year, when we received a copy of Bill S-7 forwarded to us by one of the M.P.'s from British Columbia.

Subsequent to having received the Bill, I wrote to the then Minister of Transport, the Honourable George McIlraith, on April 7th, 1964, asking him to delay passage of the Bill, until our Union had an opportunity to study the Bill and make representation on it before the Committee on Transport and Communications of the Senate.

In our letter to the Minister of Transport, we made reference to certain sections of Bill S-7, and the possible effects these amendments would have upon our members.

Since having studied the Bill thoroughly, and having had the benefit of reading the proceedings of the Standing Committee on Transport and Communications, we are now prepared to give our views on the proposed amendments affecting fishermen.

In our Union we have a number of members who are skippers of fishing vessels and a large number of members who are potential fishing skippers. Up till now these men have been able to carry on their occupation without having to carry a certificate of competency of any kind.

In addition, we also have a number of members who are engaged on vessels used primarily in packing fish from the fishing grounds to shore-based processing plants or from one processing plant to another. At one time the masters of these latter vessels were required to carry some type of certificate of competency. In the last few years, however, this requirement was removed for fish packers under 150 tons gross tonnage.

Having made these few introductory remarks, I will now deal with the specific amendments to the Act.

Clause 2, Sec. 107 (h): We strongly oppose the raising of the fine from \$100.00 to \$500.00 and the addition of a term of imprisonment of up to six months for what could be a minor offense against the regulations made under Section 107 for the sake of conformity.

Clause 3: The purpose of this amendment is to provide that the exemption given fishing vessels from the requirement to carry certificated masters and mates shall only apply to vessels that are not over 25 tons gross tonnage.

We have no principle objection to this amendment, as we realize that fishing vessels are getting larger and better equipped with machinery and electronic devices, both for fish finding and navigational purposes, requiring special skills to operate.

However, with respect to those men who are presently skippers of fishing vessels, or may become skippers of fishing vessels prior to enactment of the proposed amendment, we must insist that proper protection be provided either directly in the Act or in the regulations that may be promulgated as a result of this amendment.

Clause 5 116A Sub-Section 1: The purpose of this amendment is to authorize the Governor in Council to make regulations respecting the types of certificates to be held by masters and mates of fishing vessels, and the qualifications and examinations of applicants for such certificates.

We are strongly opposed to having such regulations by Order-in-Council affecting the livelihood of a large number of fishermen, so we are pleased to see that a further amendment 116B has been introduced to give the desired protection to the older generation of fishermen.

Sub-Section 2 of 116A: This provides for the issuance of certificates to persons who are not British subjects and Sub-Section 2 of 116B deals with the period for which such certificate shall be valid.

Under both Section 116A and 116B the term fishing vessel, not only refers to vessels employed in catching fish, but also includes vessels used solely in transporting fish from active fishing vessels to shoreplants, or from one shoreplant to another, and it appears to us that the same type and class of certificate is contemplated for both classes of fishing vessels, and if so, we are opposed to this for two reasons.

1. Under the Fisheries Act a person must have a fishing licence, either as skipper or as assistant in order to engage in the commercial catching of fish, and licences are only issued to naturalized British subjects or Canadian citizens, and

2. Foreign fishing companies, with interests in Canadian fishing companies could bring in their own nationals to serve as masters and mates, on Canadian fishing vessels, and thereby take away jobs from Canadian fishermen.

We are not opposed to giving certificates to persons who are not Canadian citizens who work on vessels that are used to transport fish from active fishing vessels to shoreplants, or between shoreplants, as long as they are otherwise qualified. We would however strongly urge that such certificates should be granted to landed immigrants only where there is a shortage of qualified Canadian citizens.

We are very strongly opposed to 116A (2) because it grants power to the Governor in Council to grant certificates to persons who are neither landed immigrants nor Canadian citizens, nor British subjects. It is wide open to misuse of regulations to allow Canadian citizens, British subjects, and landed immigrants to be displaced by other persons who intend to remain nationals of foreign nations.

We favor an amendment to 116B to eliminate the obvious conflict with the Fisheries Act, which Act requires that a person must be a naturalized British subject, or a Canadian citizen in order to obtain a commercial fishing licence. We must clearly state we favor retention of this principle in the Fisheries Act, and that Bill S-7 requires an amendment eliminating the obvious contradiction which would occur if 116B is not amended as we propose.

In addition to the above comments on Bill S-7 that concerns fishermen we have had the opportunity of reading the Brief submitted by the National Association of Marine Engineers of Canada to the Senate Committee on Transport and Communications.

We take this opportunity to express our agreement with the views expressed and the recommendations made in respect of Clause 4, Section 115 as submitted by the Marine Engineers.

The CHAIRMAN: Thank you, Mr. Stavenes. Having heard Mr. Stavenes' brief, are there any questions which any honourable senators wish to ask on different parts of his brief? Perhaps it would be easier if we dealt with them section by section, as his brief deals with them.

I will commence with his comment on clause 2 regarding the increase of the maximum fine from \$100 to \$500 and providing for a term of imprisonment. I would point out that is only increasing the maximum, and it does not mean that the fine will be \$500. It will be a matter of the discretion of the court as to the seriousness of the offence.

Mr. STAVENES: Well, we look at it this way, the previous maximum fine in that section was \$100 and there was no prison term. We feel that under that particular section the fine and term of imprisonment will be for offences against certain regulations in regard to the licensing of vessels and what we consider might be minor infringements of the regulations. We do not feel it necessary, just for the sake of having conformity in the act—that is, I believe other sections have other maximums of, maybe, \$500 or \$1,000, or whatever they are—that fine should be raised to that amount of \$500 or the term of imprisonment.

The CHAIRMAN: You simply think this was done in order to make this section conform to other sections of the act?

Mr. STAVENES: I read the part in the amendment where it stated the reason for this was to conform with other sections of the act.

The CHAIRMAN: Yes, that is so, in the note opposite the section.

Mr. STAVENES: Yes.

Senator REID: Could we have an explanation of the reason why this amount has been increased from \$100 to \$500?

The CHAIRMAN: Perhaps someone in the department could tell us that.

Senator REID: We should be told that.

The CHAIRMAN: Mr. MacGillivray, counsel for the department can speak on that.

R. R. MacGillivray, Assistant Counsel, Department of Transport: Yes. This is a normal policy we have been following for some years now, ever since the Criminal Code was revised. When we have a summary conviction offence in one of our statutes, if the fine is not in conformity with the summary conviction provisions of the Criminal Code we bring it into line by having provision for a maximum fine of \$500 and imprisonment for six months.

Senator REID: Where was the difficulty experienced when the fine was only \$100?

Mr. MACGILLIVRAY: I am not sure we ever did have any serious difficulty with it, sir. That fine was established many years ago—certainly no later than 1934. The value of money has changed since that time, of course, and this is a point on which we have not had difficulty such as we have had in one of the other provisions, where we are increasing the fine greatly; but it is just our intention to achieve uniformity in the matter of summary conviction proceedings in our law.

Senator BRADLEY: Surely, the heaviness of the fine should depend on the gravity of the offence rather than on the question of conformity?

Mr. MACGILLIVRAY: I think there could be some offences in relation to the licensing of small vessels—persons who refuse to take out a license for a pleasure craft or who refuse to place markings on their pleasure craft—I think it could be quite a serious offence. For instance, we want pleasure craft marked so they can be identified if they engage in unsafe practices. If a person fails to mark his vessel and is involved in an accident on a hit-and-run basis and is eventually found, I think the court would want to impose a fine of more than \$100.

Senator REID: Have you had many cases of that kind?

Mr. MACGILLIVRAY: We have had one or two where people objected to marking their vessels. I think this would have very little impact on the fishing industry, because I believe most of their vessels would be registered rather than licensed. This only applies to vessels that are not required to be registered.

Senator SMITH (*Queens-Shelburne*): Would not all the vessels in the fishing industry, regardless of size, be registered, because then they qualify for the sick mariners' benefits?

Mr. MACGILLIVRAY: Yes.

Senator SMITH (*Queens-Shelburne*): So this section does deal only with these pleasure craft?

Mr. MACGILLIVRAY: Yes, that is what is aimed at. You will very rarely have any other craft other than a pleasure craft that is licensed.

Senator BRADLEY: A man who failed to carry out the law with regard to pleasure craft, basically stands in the same position as anyone else. If he refuses to conform to the law, that is another matter.

The CHAIRMAN: This section does not really deal with fishing vessels at all.

Mr. STAVENES: I think it does, I think the majority of fishing vessels in British Columbia are under the size that requires registration. I am not sure what the requirements are, but I would say the majority of fishing vessels in British Columbia are at the present time licensed vessels and are not registered vessels.

Senator KINLEY: Who owns the boats?

Mr. STAVENES: Fishermen, in most cases.

Senator KINLEY: They own them individually?

Mr. STAVENES: Yes.

Senator KINLEY: And you are liable for the boat yourself?

Mr. STAVENES: Yes.

Senator KINLEY: That is a little heavy then.

Mr. STAVENES: Another thing, personally I do not think a fisherman, if he should inadvertently contravene the regulations, should be classed as a criminal for such an offence.

Senator BRADLEY: That is my point. If he refuses, point blank, to register that is another matter, but a mere neglect to do so, perhaps due to fortuitous circumstances, I do not think that he should be subject to a fine of \$500.

The CHAIRMAN: Of course, it would always be a matter within the discretion of the judge who heard the case, to determine how serious the offence was.

Senator BRADLEY: I have seen the bench go too far on many occasions.

Senator SMITH (*Queens-Shelburne*): How long has it been since the maximum was set at \$100? Doesn't this go back a long time I don't want to know exactly, but it is rather a long-standing amount, is it not?

Mr. MACGILLIVRAY: This was established in 1915. It was the amount laid down in the present vessel regulations, and I am not sure but that it may go back beyond that.

Senator SMITH (*Queens-Shelburne*): Relatively \$500 is not much difference from what it was when it was first set at that amount. It seems to me, Mr. Chairman, that we should not be too critical because there is a growing problem in this country with regard to pleasure craft. I wonder if they should not be dealt with in the same way as automobile drivers. We deal severely with automobile drivers who drive recklessly or who drive without a licence. Surely we should make somewhat the same situation apply to these people. We have, of course, to rely on the judgment of good judges.

Senator BRADLEY: We have to rely on the good judgment of bad judges too.

Senator SMITH (*Queens-Shelburne*): We have to rely on judges with regard to motor vehicle driving. But we have the situation now where some people are getting away with a \$10-fine. I think we should consider very carefully before we introduce this maximum. We must remember that \$100 before 1915 was a large amount of money and probably equal to what we are doing today.

Senator BRADLEY: We should be careful in considering these things to realize that there should be an element of *mens rea*. The mere failure to carry out a regulation should not of itself subject an ordinary fisherman to a fine of \$500.

The CHAIRMAN: Senator McLean.

Senator McLEAN: Did the Department of Fisheries make inquiries about this bill before it was introduced? Did they make any inquiries as to how it will work out?

Mr. MACGILLIVRAY: You are thinking of the situation which arises in terms of violation of this act. I am not sure I understand this question.

The CHAIRMAN: I think Senator McLean was asking if the department had made inquiries from fishermen before introducing this.

Mr. MACGILLIVRAY: I think the Department of Transport did.

Senator KINLEY: Have you had any infractions by the bigger vessels?

Mr. BALDWIN: Not with the registered vessels, that I am aware of. This is primarily a clause intended to enable us to deal with the growing problem of pleasure craft.

The CHAIRMAN: Any further discussion on this part of Mr. Stavenes' brief? If not, perhaps we could proceed to his comments on section 3, that is the section prescribing licences for people to operate fishing vessels exceeding 25 tons. Have you any objection to this section? You want to have the men who now operate these small vessels protected. I think we have covered that in the proposed amendment to section 116 (c).

Mr. STAVENES: You have covered it at least partly in section 116 (b). But what we object to appears in both 116 (a) and (b). That is the provision that people who are not Canadian citizens or British subjects may be given a certificate of competency to become masters of fishing vessels.

Senator SMITH (*Queens-Shelburne*): We are having difficulty in hearing the witness.

Mr. STAVENES: May I say again our concern is that the clause in this particular section providing that non-Canadian citizens and non-British subjects be given certificates of competency—it seems to have lumped together in this clause all types of fishing vessels or vessels engaged in the fishing industry. As I have outlined in my brief we have fishing vessels which do nothing else but fish, and they require fishing licences to operate those. However on the other hand we have vessels which carry fish from camps where fishermen deliver their catch and from fishing boats to processing plants. These we call packing vessels. Since these are lumped together we feel there is a contradiction here in this amendment. To carry on the business as a fish packing captain no such requirement is in the act. We feel there is something that should be changed, and perhaps there should be some amendment to that section to specify that there should be two classes of certificates, or at least the certificates to spell out the requirements for fishing purposes and for the purposes of packers.

Mr. BALDWIN: These clauses were the subject of rather extensive consultation with representatives of the fishing industry across Canada, and my recollection is that this particular point arose as a result of the proposals received from some of the groups we consulted, and I would like to ask Mr. Morrison to give some further details on that.

The CHAIRMAN: Mr. Morrison is the Superintendent of Nautical Examinations of the Department of Transport.

Mr. MORRISON: With respect to the proposed 116 (a) which includes the provision that the certificates may be issued to persons who are not British subjects, this was included as a result of requests made by the Quebec Fisheries Association and the Lake Erie Fisheries Association. As I understand it the reason for the request was that they understood a number of European immigrants came into this country with their own boats. They could register their own fishing vessel, and if no provision was made for issuing a certificate to these people they would not be able to fish with their own vessel simply because the certificate of competency or a certificate of service as the case may be could not be issued to them.

Senator REID: You mean these people come into the country with a boat. Does this affect people coming from all countries in Europe, bringing in their own boat and getting a licence right away to use the boat? Surely there must be some time lapse after they arrive in the country. They cannot arrive from the continent tomorrow and then start fishing.

Mr. MORRISON: As soon as they register their vessel as a Canadian vessel they will be able to get a licence to fish.

Senator REID: That is strange. They are not Canadian citizens, and they are getting a licence to fish.

Mr. MORRISON: By that time, sir, they would be Canadian residents.

Senator REID: They could not be citizens until they are here a certain number of years.

Mr. MORRISON: Not until they are here five years, I understand. If the provision was not made the boat would have to remain idle and they could not fish.

Senator REID: I don't understand that. I think there is something wrong, very far wrong too.

Senator SMITH (*Queens-Shelburne*): Mr. Morrison, was it the intention of the department that this should be permissive, so that in unusual circumstances, where it was in the public interest or the interest of the country not to hold a man up long enough until he had established residence and citizenship, you could give him a break so that he could go to work? Take the case of a man who would come into the country from Hungary and be an excellent plumber. He should not be held up in his trade. It seems to me that you or someone in the department should have permissive power to grant the licence, under circumstances where you are satisfied it is in the public interest. This does not mean that every person who would come into the country would automatically get a certificate of competency and could go fishing.

Mr. MORRISON: It was our intention to use it in the permissive manner.

Senator SMITH (*Queens-Shelburne*): Each case would be examined on its merits. It seems to me there should be some provision of that nature. I know more about the Atlantic coast than the east coast. There have been changes in the fishing methods on the Atlantic coast and there will be changes in the future. Someone from Norway may come to demonstrate a new method of fishing, perhaps regarding herrings or something else, and I am sure you would not want to hold him from being the captain of the demonstrating boat. I think you people should have power to do this, as long as he would have the competence.

I can see Senator Reid's point of view also, that this might be abused and privileges given to foreigners, taking away from our nationals the chance to earn a livelihood. We must face that situation in every form of immigration.

Senator REID: If this is giving them the same rights as our own people to go and fish, then they can flood the fishing areas with people from other countries.

Senator BRADLEY: Must they not register the ship as a Canadian ship? It would have to be so registered, would it not?

The CHAIRMAN: Section 116A(2) is clearly permissive. It is not mandatory. It is within the competence of the department to determine in any particular case whether a non-Canadian citizen should get a certificate of competency. I cannot imagine that the department would go so far as to flood the fishing industry in Canada with non-residents to whom they have given certificates of competency.

Senator REID: The right is there.

The CHAIRMAN: It is not a right. It is permissive. It is within the discretion of the department.

Senator KINLEY: It is the minister's preference.

The CHAIRMAN: Yes.

Senator BRADLEY: The operative word is "may" instead of "shall".

Senator MOLSON: Is this brought about by any political exiles who head over here to escape from the Iron Curtain? I know at least one or two small vessels sailed in with a rather extraordinary odyssey at their backs.

Mr. MORRISON: It is probably this type of thing which these two associations had in mind. They had several cases of that nature and also several cases on the east coast where Norwegian and Danish fishermen have been brought in to demonstrate new fishing techniques.

Senator SMITH (*Queens-Shelburne*): Is it not a fact that on the west coast where a man and his vessel go fishing it also depends on his ability to get a licence from the Fisheries Department to enter the fishery and with that you have no connection whatsoever. It is only if this man gets a licence to fish that you determine whether he ought to be qualified as a captain of one of these smaller vessels.

Senator REID: He must be a Canadian citizen. My point is that if you give it to any others you will have many coming in. What about the Americans using the British Columbia waters?

Senator KINLEY: Mr. Chairman, how big are the boats these men are interested in?

Mr. STAVENES: It is not the boats we are interested in, but the people.

Senator KINLEY: What size boats do you want?

Mr. STAVENES: Up to 150 tons.

Senator KINLEY: As regards smaller boats, how about them?

Mr. STAVENES: There are fishery boats which do not require a certificate, which would be under 25 tons. What I am objecting to is having foreigners coming in who may be certified captains in foreign lands.

They come in here with a master's certificate and are given an opportunity to take over Canadian fisheries. This would be in conflict with the provisions of the Fisheries Act, which requires a person to have a fishery licence.

Senator KINLEY: They should not get a licence?

Mr. STAVENES: They should not get a licence.

Senator KINLEY: It would permit captains to do business. He does not have to be a Canadian. There are sailors coming in all the time. It is not an issue on my side.

Senator BRADLEY: These men who come in are presumably competent fishermen. They are not allowed to work because they are landed immigrants. What about a plumber or a carpenter?

Senator REID: A plumber is not using natural resources. Our natural resources are fish.

Senator BRADLEY: He may not be using natural resources in a raw condition but using them partly manufactured.

Senator REID: I hope you do not have a flood of them in Newfoundland.

Senator BRADLEY: We have no problem there.

Senator SMITH (*Queens-Shelburne*): It seems to me we are off the track, because most of us are talking about permission to fish in Canadian waters and that is a matter for the Fisheries Department to decide, particularly as regards the west coast. If a man gets a licence to fish from the Fisheries Department you have a double check as to whether this man should be given the licence or the certificate to embark on that fishery.

Senator REID: Let us be clear right now. He does not get a fishing licence unless he is a Canadian citizen?

Senator KINLEY: Have you any oriental problem in the west?

Mr. STAVENES: There were three years ago some joint operations started between Japanese fishing companies and British Columbia fishing companies. They brought in a number of Japanese citizens to operate those vessels. They were given special permission to operate them, by the Department of Transport or the Department of Fisheries, I am not sure which. They are there only under permit. We do not want to see anything that makes that permanent, because as soon as these people have finished with the whaling season in five or six months, they head back to Japan for the balance of the year. They do not become residents of Canada.

Of course, on the other side we do not object to giving certificates to immigrants, providing the certificate they receive does not permit them to go fishing. In other words, we give it for fishing packers, solely for packing fish. We do not object to this type of certificate. There could be some differentiation in the type of certificate issued, that would state that this is for packing fish.

Mr. MORRISON: As I understand it, in issuing these fishing licences, a difference exists between the east coast and the west coast. I understand that on the west coast every fisherman must have this licence, whereas on the east coast the vessel itself is licensed and the men are not.

Senator SMITH (*Queens-Shelburne*): A man is licensed in so far as lobster fishing is concerned. That is very important.

Senator REID: On the difference between the east coast and the west coast, I cannot understand the argument.

Mr. MORRISON: Let us suppose a landed immigrant is issued a certificate of competency as a master. The certificate of competency, through a request of the fisheries department, would be over-printed with a statement to the effect that this certificate of competency is not a fishing licence.

Senator REID: A fishing licence is something again.

Mr. MORRISON: Yes, a fishing licence is something quite separate. Therefore, if this man wished to fish on the west coast he would then have to get a fishing licence from the Department of Fisheries, and since he is a landed immigrant they would not issue it to him on the west coast.

Senator REID: He would have to be a Canadian subject to get a fishing licence?

Mr. MORRISON: Yes, on the west coast; but the situation is somewhat different on the east coast.

Senator REID: No wonder there is trouble on the Atlantic side. He cannot get it if he is not a Canadian citizen. Is there anything wrong in that?

Senator BAIRD: Yes, is there anything wrong with that?

Senator MOLSON: It seems to me there is an awful lot of confusion in our policies in this country. We try to find competent and qualified immigrants in all sorts of skills, and we are bringing them in. If they are doctors they are not allowed to practise; if they are lawyers, they are not allowed to practise; and if they are fishermen they cannot fish. If that is the case, what are they going to do?

Senator REID: On the Pacific coast there is just a certain quantity of fish, and we feel there are too many fishermen already. If you come over there and are allowed to fish, soon there will be nothing left.

Senator HOLLETT: We have been sending them from Newfoundland for many years.

Senator FOURNIER (*Madawaska-Restigouche*): Could we find out how many licences—

The CHAIRMAN: Just a moment. Honourable senators, it is impossible for the reporter to take this discussion if several honourable senators speak at the same time.

Senator FOURNIER (*Madawaska-Restigouche*): Mr. Chairman, I would like to repeat my question. Could we find out how many licenses have been issued to immigrants on the east coast and on the west coast?

Mr. MORRISON: This is a question about the Fisheries Act and we are not really competent to answer that. All we are dealing with here are certificates of competency to sail a vessel and this has nothing to do with their eligibility to fish.

Senator FOURNIER (*Madawaska-Restigouche*): Are we dealing with a flea on an elephant, or is it a serious matter?

Senator KINLEY: He says we are dealing with the size of the vessel, and ships exceeding 25 tons shall have a registered captain. I think that is what we are dealing with.

Mr. STAVENES: I am specifically concerned about this subsection of section 116A which reads:

Notwithstanding anything in this Part, regulations made pursuant to subsection (1) may provide for the issue of certificates to persons who are not British subjects.

We think this gives too wide powers to the Governor in Council. We do not understand what is meant by, "Notwithstanding anything in this Part,". Does it mean this amendment, this bill or the entire act?

The CHAIRMAN: The entire act.

Mr. MORRISON: It means Part II of the act.

The CHAIRMAN: I must admit I am rather confused myself. Would there, in fact, be a conflict between the Fisheries Act and this Act? In other words, what would be the effect of giving a certificate to a person who is not a British subject to act as master of a fishing vessel if he could not fish?

Mr. MACGILLIVRAY: He still could not fish. There are two restrictions on him, one under the Fisheries Act and one under the Canada Shipping Act. If we remove it from the Canada Shipping Act we can do it in this bill, but not under the Fisheries Act. As far as a person's legibility to fish it means nothing, but deals with his eligibility to be captain of a vessel.

Senator KINLEY: You are dealing with claus 3, ar you?

Mr. STAVENES: Twenty-five tons and over.

The CHAIRMAN: No, we are dealing with clause 5, senator.

Senator KINLEY: You have skipped clause 3.

Senator BRADLEY: Section 116A, that is the one, is it not?

Mr. STAVENES: It refers to ships over 25 tons which will be required to carry a certificated master after a certain period of time.

Senator BRADLEY: I do not like that at all.

The CHAIRMAN: Honourable senators, we cannot proceed with several honourable senators speaking at once. Is someone asking the witness a question? Senator McLean?

Senator McLEAN: Are we on item 3?

The CHAIRMAN: We are on section 5.

Senator HOLLETT: I wonder if the witness could tell us why that provision is in section 3.

The CHAIRMAN: Section 5—we are dealing with section 5.

Senator HOLLETT: We were a moment ago, but I thought you left that.

Senator KINLEY:

Notwithstanding anything in this Part, regulations made pursuant to subsection (1) may provide for the issue of certificates to persons who are not British subjects.

I think that is what we are dealing with.

The CHAIRMAN: Yes.

Senator HOLLETT: Sections 5 and 3 go together, do they not? One refers to the other. Regulations may be made under section 5 to give a licence to a fishing captain or engineer. Under section 5 you make the regulations, do you not?

Mr. MORRISON: Under section 5 you make the regulations.

Senator MCLEAN: Section 3 deals with reducing the tonnage from 150 tons to 25 tons.

The CHAIRMAN: We were dealing with the question of non-Canadian citizens.

Senator HOLLETT: I thought you satisfied the honourable senator on that point.

Senator SMITH (*Queens-Shelburne*): Could I make a comment at this point, Mr. Chairman? It seems to me the difficulty is not connected with fishing rights at all, because under some legislation there is provision for the fisheries department to control who shall have the right to fish, particularly on the west coast. But what I think the witness has been trying to point out to us is that they have objection to those who may not be entitled to fish under legislation concerning the fisheries administration but who might be on some of these smaller boats and might be packing fish.

The CHAIRMAN: Or carrying fish from one place to another.

Senator SMITH (*Queens-Shelburne*): Yes, and I think the witness can confirm what I am saying, but is it not his objection that he does not think it is in the public interest that those who are not British subjects should have permission to be captains of fish packers? By "packers" I mean a boat that is packing fish back and forth. Is that your main objection?

Mr. STAVENES: No, we have no objection to a non-British subject becoming captain of a packing vessel.

Senator BRADLEY: That is a carrier, really?

Mr. STAVENES: Yes. What we are concerned with is the fact that in this amendment it calls for two types of vessels lumped together, and they are called a fishing vessel whether they actually fish or not, and we want some distinction between the two. The people from the department will understand what I am trying to accomplish, and it is this, that there should be a distinction between the master of a packing vessel and the master of a fishing vessel.

Senator SMITH (*Queens-Shelburne*): If the immigrant cannot get a licence to fish from the fisheries department, I do not see why you want to have that distinction made.

Mr. STAVENES: We have had examples of people, neither British subjects nor Canadian citizens, who have found their ways aboard vessels fishing. By some means they evade the Department of Fisheries inspectors, and some fishing company could engage a person who gets aboard and gets a licence through some devious means. This could happen and this is what we are concerned with.

Senator SMITH (*Queens-Shelburne*): Does that happen very frequently to your knowledge?

Mr. STAVENES: Not very frequently, but it could happen.

Senator SMITH (*Queens-Shelburne*): Does the licensing technique of the department include the licensing of every member of a crew?

Mr. STAVENES: They cannot work on board a fishing vessel without a fishing licence. They cannot work on the vessel without a licence.

The CHAIRMAN: This in itself is not in the bill.

Mr. STAVENES: We feel some protection should be given in this amendment so that people who are not entitled to have fishing licences be not given certificates to operate fishing vessels. They can be given certificates to operate packing vessels, but not fishing vessels.

Senator SMITH (*Queens-Shelburne*): I wonder whether it would be helpful for us to give consideration to the problem that confronts him, and perhaps with some consultation with the Department of Fisheries they might be able to strengthen their efforts to exert a practical control on this whole thing so that we would not have to do it through this means. Is there some way you could suggest, Mr. Stavenes?

Mr. STAVENES: I would not suggest that this be done by the Department of Fisheries. I think if the Department of Transport issued certificates they could issue two types of certificates, marked in two different ways. I have no suggestion as to how they would be marked, but they could indicate whether or not the person holding a certificate is entitled to fish or to be a master of a packing vessel.

The CHAIRMAN: I think you have accomplished your objective in drawing the attention of the department to this. We cannot deal with it in this bill.

Have we concluded our examination of Mr. Stavenes' brief? I think we should perhaps move on.

Senator KINLEY: Senator McLean is interested in clause 3.

Senator BRADLEY: There is a serious objection here.

Senator McLEAN: Is anyone familiar with fishing in the Bay of Fundy?

Mr. MORRISON: I am not personally.

Senator McLEAN: I would say the bay is almost common ground with Nova Scotia, Maine and New Brunswick. There are hundreds of boats under 150 tons, carrying from one plant to another. You cannot get more than 10 miles away from shore without getting to a Nova Scotia shore or to the Maine shore. Now you want to put captains of those little boats who are going to be covered by this out of business. I am sure whoever put that clause in is not familiar with fishing in the Bay of Fundy.

Mr. MORRISON: I found considerable difficulty in contacting any association of fishermen in that area. With regard to disrupting the fishing industry, as has been mentioned before, those who are now in command would be issued this certificate of service simply on the basis of a letter produced stating that they have been in command for a fishing season. The proposed examination is for the certificate of competency and is quite rudimentary, and I don't think it should pose any serious problems to the fishermen in that area. So far as training facilities are concerned I understand a fisheries college is to be set up at St. Andrews and would probably serve that area.

Senator McLEAN: Why put it in the law then?

The CHAIRMAN: May we pause here. I think we have finished with Mr. Stavenes' brief.

Senator KINLEY: I want to ask one question. You say they would be issued with a certificate because of experience. Is that an open and shut door, or is it to continue in future that experience will result in the issue of a certificate?

Mr. MORRISON: Experience will give them a certificate for a limited time. After five years we would issue a different kind of certificate.

Senator SMITH (*Queens-Shelburne*): I notice in the brief the witness from the west coast states they are in favour of that clause of the bill. I would not suggest we should detain him. I suggest there might be a long discussion with Captain Morrison on this, and I don't think we should detain the witnesses.

Mr. STAVENES: Thank you for the opportunity to appear before you. May we be excused?

The CHAIRMAN: Certainly.

Mr. MORRISON: There is one point to which I should perhaps draw the attention of the committee. In this brief we have been discussing matters mentioned in the final paragraph on page 3 of the brief where it said: "including vessels used solely in transporting fish from active fishing vessels to shore plants, or from one shore plant to another." I would point out that my understanding of the bill, section 114, is that a vessel which carries fish from one shore plant to another would be regarded as a cargo vessel, that is when she is carrying this fish from one place in Canada to another.

Senator KINLEY: Are you going to put in a provision to that effect?

Mr. MORRISON: No, I am pointing out that under section 114 a vessel carrying fish from one plant to another would be classified as a cargo vessel, and therefore would be required to have a certificate of a master on board if she is in excess of 10 tons gross.

Senator KINLEY: You used the word "solely" before.

Mr. MORRISON: When I used that particular word I was reading from the brief which has been submitted.

Senator KINLEY: You quite understand she may be carrying fish one day and the next day may be going for supplies. You can get in trouble if you use the word "solely".

The CHAIRMAN: The witness didn't use the word "solely"—he was quoting from the brief.

Senator McLEAN: What about the weirs or traps? There is a lot of them on the bay. They are set all along the shore of Maine and New Brunswick and along the shore of Nova Scotia. They are set along the islands, and the fishermen bring them in boats and bring them direct to the plant. Now the bay is about 40 miles wide, and the islands just run right along the shore about a mile out. The boats bringing in these, must they have a captain if they are over 25 tons?

Mr. MORRISON: They would be regarded as fishing vessels and under section 3 if that vessel was over 25 tons gross then she would be required to have a certified master on board.

Senator McLEAN: You are going to put a lot of people out of business.

Senator BRADLEY: They are going to put a lot of people out of work.

Mr. MORRISON: Those who are now sailing in such vessels as you describe would be issued a certificate of service which would enable them to continue their trade.

Senator McLEAN: You said about consulting the fishermen. The fishermen of the bay were not consulted.

Mr. MORRISON: I do not profess to have made contact with the entire industry.

The CHAIRMAN: I do not think Senator McLean is aware of the new amendment proposed to section 116B.

Senator McLEAN: I have not seen it, sir.

The CHAIRMAN: I think we should wait, to discuss these clauses between ourselves and members of the department, until we have concluded the evidence of the outside witnesses.

Senator KINLEY: I have one more question. There are thousands of boats, you will have to register and police them. How many more civil servants will be needed for that purpose?

Mr. MORRISON: I do not think we need any more at the moment, sir. In so far as the issue of certificates is concerned, I think we would be able to deal with this through using our present staff. In some areas we may have to ask those of our staff who are engaged in other activities, to assume this as a new activity, but I do not believe we would need more.

Senator KINLEY: Is it assumed that they are not very busy at the present time?

Mr. MORRISON: I would not say that they are not very busy but I think it can be fitted in with other duties.

The CHAIRMAN: We have with us again today Mr. Bullock, the Secretary of the Canadian Merchant Service Guild of Vancouver, accompanied by Captain Barry. I think they wish to make some further representations to us in some other sections of the bill which we did not discuss on the last occasion. Shall we ask Mr. Bullock to come forward again?

Hon. SENATORS: Agreed.

The CHAIRMAN: When Mr. Bullock was here last week he discussed Clause 4, in connection with tugboat operations on the Pacific coast. On page 59 of his evidence he said that he wished also to discuss the certificates of competency, Sections 114 and 116; Section 115, engineers; and Section 671, dealing with the trading of Canadian ships in Canadian ports. Would you give your representations now, Mr. Bullock?

Mr. G. F. Bullock, Secretary, Canadian Merchant Service Guild: Mr. Chairman and members of the Senate committee, we will be brief. We are concerned with the intent of Section 116A especially. You have just finished discussing it at length. Representing the masters, mates and pilots in Canada, my executive officers requested me to discuss this with you. We are concerned about the granting of certificates of competency, or certificates of service—they really do not mean anything, the certificates of service—to certain persons who are not citizens.

We would like to advise you that the Department of Transport already has regulations and we do not believe those regulations should be lowered.

It is one thing to say about a Canadian that he has a certificate of competency issued by the Department of Transport, and especially his foreign going certificate, and he is acknowledged as holding something of value.

The Department of Transport has a syllabus for various certificates. You must establish you have been 24 months at sea, or 36 or 48 months, just to qualify to sit for the certificate, before the examiner will permit you to go through your written or oral examination.

Senator REID: Does that apply to men coming into the country as well as to the man born here.

Mr. BULLOCK: You have to qualify yourself as a British subject, as a Canadian citizen, even to sit for the examination. We want to see him in the same category as people of other professions who come to Canada. I do not want to go into medical or legal matters, but no matter how many degrees you have to show, you must show competence in order to practise. We fear that people are being told that they do not have to be citizens and can go ahead while our own people have to pass their examinations. We do not

want to see the quality of the examination lowered but we want it to apply to everyone.

Senator SMITH (*Queens-Shelburne*): What kind of certificate are you referring to?

Mr. BULLOCK: Any certificate issued by the Department of Transport. In order to sit, you must show you have your experience, and it will not do to have it in a rowboat, as there is Mr. Morrison and the examiners to watch that point. We maintain the idea of a Canadian certificate. We are not here to discuss fishing but qualifications on certain kinds of ships in order to sit for the exam. No one has given us anything and we do not want anything. We want to see the same yardstick applied to all, as given in the syllabus of the Department of Transport. On tugboats, for instance, there is no mate, you go straight from deckhand to master, but the department says that they must serve 48 months. I happen to be four years, just to sit for the exam.

The CHAIRMAN: You are criticizing subsection (2) of 116A, providing for the issuance of certificates to non-British subjects, on the ground that possibly the department might let in people who are non-British subjects with certificates, who have not gone through the requirements that a British subject has to go through, that a Canadian has to go through?

Mr. BULLOCK: Yes, thank you, that is it.

Senator HAYDEN: Is it suggested that Section 5 permits or provides some way by which different and lowered standards might be applied to the person who is not a British subject as against the one who might be a British subject?

The CHAIRMAN: I think we shall have to hear from the department on that. After all, it is permissive.

Senator HAYDEN: But the permission is to issue the certificate. I do not think there is anything there dealing with any lowering of standards in relation to somebody who is not a British subject.

The CHAIRMAN: Perhaps Mr. MacGillivray might answer that.

Senator KINLEY: Is this gentleman representing the Master Mariners Association?

Mr. BULLOCK: Yes, sir.

Mr. MACGILLIVRAY: Certainly among the people who proposed this amendment there never has been any thought, and I think it inconceivable that the Governor in Council would ever make regulations that would operate more favourably for landed immigrants than for people who have lived here all their lives. There is no thought of that at all, sir.

The CHAIRMAN: Does that make you feel happier, Mr. Bullock?

Mr. BULLOCK: If the solicitor for the department says that, it will take away quite a few of our fears. That is all we are asking for: use the same yardstick for everybody.

The CHAIRMAN: What other sections do you wish to discuss, Mr. Bullock?

Mr. BULLOCK: One other.

The CHAIRMAN: Which section?

Mr. BULLOCK: Section 671 of the act, that part which refers to the trading of Canadian ships between Canadian ports.

The CHAIRMAN: Section 35 of the bill.

Mr. BULLOCK: Yes, section 35.

Senator REID: What page is that?

The CHAIRMAN: Page 19. That is the section which purports to limit to Canadian vessels the right to trade between the Head of the Lakes and Anticosti Island.

Mr. BULLOCK: If I may—and I will be as brief as possible—this is quite an old subject with our association. The discussion has been going on with the Department of Transport—looking back through our records—since about 1918, which is a few years ago. Constantly the idea has been brought up that if we are going to have a Canadian Merchant Marine and we are going to look after our shipping, if they are going to trade between our ports they should be our ships. This proposed amendment to the act is—well, there were cheers in our office when we read this, and I might say, Mr. Chairman, just a week ago this morning. We are going to mark our calendars off on the 21 May because there were two officials from shipping companies here and they were stealing all our thunder, and everything they said was just what we have in our minds. We used to be arguing with each other, but we are not arguing now.

There is just one thing. I do not know if I am using the correct language in saying this, but we would just like it to read that it is only Canadian ships which trade between Canadian ports. There is a proviso in here that we are only going to deal with a certain route. We do not care, apparently, in the act—I do not think that is the correct phraseology, but they say in the act, “Come out to our B.C. coast and you can run between our Canadian ports, because we tell you in here we are not going to bother you.” We thought our B.C. coast, and so on, are all part of Canada, and that is the only thing we are concerned with.

The CHAIRMAN: You would like this restriction extended to other parts of the coast?

Mr. BULLOCK: I think if we are going to paint the house, we should make it all four sides. We think we have a pretty solid argument on it, and we would like to finish the job properly that we have been trying to do for years. I think it would be one of the best things that ever happened to our shipping. I think that is all, Mr. Chairman.

The CHAIRMAN: Thank you, Mr. Bullock. Are there any questions members of the committee wish to ask Mr. Bullock?

There is only one other witness, as far as I am aware at the moment, and that is Mr. O'Brien of the Fisheries Council of Canada, who was here last week and who is here this morning and has listened to all the discussions. I think we would be very glad to hear from Mr. O'Brien, if he wishes to say anything to us. He wrote me a letter which, you will remember, I quoted last week, in which he said he had a watching brief. Having watched, perhaps Mr. O'Brien would now give us his ideas on the discussions that have taken place in the committee so far.

Mr. C. Gordon O'Brien, Manager, Fisheries Council of Canada: Mr. Chairman and honourable senators, as has been stated, my name is C. Gordon O'Brien, and I am the manager of the Fisheries Council of Canada, with offices at 77 Metcalfe Street, Ottawa. We are a national trade association representing the commercial fishing industry and, for the convenience perhaps of the reporter, Mr. Chairman, I could hand him a list of the member associations, which number 16, from coast to coast.

The CHAIRMAN: Does the committee wish this list to be read?

Senator SMITH (*Queens-Shelburne*): Is it not on our record already? Is it not included in last week's record?

The CHAIRMAN: I do not think the list of member associations is.

Mr. O'BRIEN: Not on this committee's record.

Senator SMITH (*Queens-Shelburne*): I am sorry, that is right.

The CHAIRMAN: Perhaps we could include that in Mr. O'Brien's evidence.

(*The list is as follows*):

MEMBER ASSOCIATIONS
FISHERIES COUNCIL OF CANADA

BRITISH COLUMBIA

Fisheries Association of B.C.

Secretary-Manager: K. M. Campbell,
Room 201, 325 Howe Street,
VANCOUVER, B.C.Prince Rupert Fishermen's Co-op.
AssociationGeneral Manager: K. F. Harding,
P.O. Box 520,
PRINCE RUPERT, B.C.Prince Rupert Wholesale Fish
Dealers AssociationSecretary-Treasurer: E. A. Williamson,
P.O. Box 124,
PRINCE RUPERT, B.C.

PRAIRIE PROVINCES

Prairie Fisheries Federation

Secretary-Treasurer: H. E. Bryant,
Winnipeg Cold Storage Bldg.,
Salter & Jarvis Sts.,
WINNIPEG, Man.

ONTARIO

Fish Distributors Association of
OntarioSecretary-Treasurer: Jan Overweel,
716 Terminal Building,
Toronto, Ont.Ontario Fish Processors'
AssociationSecretary-Treasurer: Don Pentz,
North Shore Packing Co.,
PORT DOVER, Ont.

QUEBEC

Montreal Fish Merchants
AssociationSecretary-Treasurer: H. Welham,
c/o A. Roy Clouston & Sons Ltd.,
8225 Mayrand Street,
MONTREAL, P.Q.

Quebec Fish Producers Association

President: Bernard Blais,
P.O. Box 307, Upper-Town,
QUEBEC 4, P.Q.

Quebec United Fishermen

Secretary-Treasurer: Guy Bernier,
P.O. Box 1100, Youville Station,
MONTREAL, P.Q.

NEW BRUNSWICK

New Brunswick Fish Packers
AssociationSecretary-Treasurer: J. W. Stewart,
c/o Canadian Manufacturers Association,
232 St. George St.,
MONCTON, N.B.

NOVA SCOTIA

Atlantic Fisheries By-Products
AssociationSecretary-Treasurer: R. F. Johnson,
P.O. Box 71, (237 Hollis St.),
HALIFAX, N.S.Canadian Atlantic Salt Fish
Exporters AssociationSecretary-Manager: R. F. Johnson,
P.O. Box 71, (237 Hollis St.),
HALIFAX, N.S.Nova Scotia Fish Packers
AssociationSecretary-Manager: R. F. Johnson,
P.O. Box 71, (237 Hollis St.),
HALIFAX, N.S.

PRINCE EDWARD ISLAND

Prince Edward Island Fisheries
Federation

Secretary-Treasurer: A. W. Gaudet,
P.O. Box 336,
CHARLOTTETOWN, P.E.I.

NEWFOUNDLAND

Newfoundland Fish Trades
Association

Secretary-Treasurer: E. A. Harvey,
P.O. Box 5730, (197 Water St.),
ST. JOHN'S, Nfld.

The Frozen Fish Trades
Association Ltd.

Secretary-Treasurer: E. A. Harvey,
P.O. Box 5730, (197 Water St.),
ST. JOHN'S, Nfld.

Mr. O'BRIEN: This matter came before—I guess it was this committee about seven years ago, and some of the senators will recall that at that time we appeared and opposed introduction of this particular legislation providing for certification of masters and mates. The reason we gave at that time for opposing it was that there had not been discussions with the fishing industry, and until there had been and we were clear in our minds as to what the department was proposing, we could not support it.

The CHAIRMAN: You are dealing now with sections 3 and 5?

Mr. O'BRIEN: I am dealing with seven years ago.

The CHAIRMAN: But the particular bill we have before us?

Mr. O'BRIEN: The provision for certificates of competency for masters of fishing craft.

The CHAIRMAN: And with the 25 tons?

Mr. O'BRIEN: I am speaking now in rather general terms. Seven years ago we had the same idea proposed. Without getting into any detail about that, but simply to explain our position at that time—because I think in courtesy to the department it is necessary to do that, since today I am here supporting the proposal—I think it would be of interest to you to appreciate the things that have happened between 1957 and 1964 which lead to my appearance in support of this proposal at this time rather than opposing it.

As I mentioned, we felt that more consultation was needed on this matter, and the department agreed. Basically, we started in the fall of 1960 to discuss this between the department and the industry, and both sides felt there was a need for something. We had had reports from various courts of inquiry, and one of the customary suggestions was that the department should look at this whole matter. There appeared to be some requirements for more control, a little better trained people on some of these fishing boats. So we agreed with the department it would be desirable to progress to the point where we should introduce a certificate.

The procedure was as follows. In February of 1961 we received from the Department of Transport Draft No. 1 of the proposed regulations with regard to the certification for competency of masters and mates of fishing vessels. That was distributed across Canada, through our 16 associations. All the associations were given the opportunity to discuss it and make their comments and send them back, where they agreed and where they disagreed with this draft. I might say this draft is not a couple of pages. Draft No. 3, which I will be coming to in a moment, runs to 36 pages.

In August, 1962, Draft No. 2 was received in my office, and 450 copies again distributed to the industry across Canada, and comments were made again on Draft No. 2 and sent back to the department. During the period between the receipt of draft No. 1 and draft No. 2, the Department of Transport, with our co-operation in arranging meetings, sent Captain Morrison from

coast to coast to sit down wherever we could get in touch with people who were interested to talk with them, and this, I am sure, was helpful to the department.

We got draft No. 3 in May, 1963. Comments were filed on it in late summer, 1963. But all I can say, gentlemen, is that we have come a meeting of minds as a result of this preliminary work. We are satisfied, with very few exceptions, with the proposed regulations as they have been given to us. These exceptions relate to certain objections still held by some of our people in British Columbia. We do not consider them to be serious objections, and we are quite confident that another visit from a departmental officer and another discussion will settle those few minor points. Furthermore we have an agreement with the department that these regulations will not come in until agreement has been reached.

The CHAIRMAN: May I interrupt you to make it clear that what you are discussing is not the provision in the bill, but the regulations to be implemented under section 116A.

Mr. O'BRIEN: What I am discussing is the consultation, and how it happened between the industry and the department over the last few years, which now brings me to the point that we come here to support the intent of this bill.

There were one or two points raised this morning which I would like to comment on. One had to do with a separate certificate for packing vessels, that it should be somewhat different from the certificate issued to a fishing vessel skipper. I would like to point out that for many, many years vessels which pack fish from the grounds to the plants or between ports have been classed as fishing vessels. We are very much concerned that there should be no change made in that. They are defined in the Canada Shipping Act as fishing vessels. These boats are in fact fishing vessels and there is no reason for splitting hairs over their classification. There is some confusion about this licensing of fishermen which is not a national thing. It applies in British Columbia, but it does not apply in most other parts of the country.

A reference was made to the issuing of licences to non-nationals, and whaling operations were mentioned. Obviously in a case like that if we didn't have an agreement with the Japanese, because they are the people who are taking the product and using it in Japan, who lent us their experts, we wouldn't have had the operation at all and Canadian fishermen would have been out of work. These permissive clauses in the act are there with good reason.

There has been some discussion of a 25-ton gross limit, and that this is quite a drop from 150-ton previous limits. All I can say is that as a result of discussions with the department over the last three years we have had no instructions from any section of our industry to oppose the 25-ton gross limit. I think, gentlemen, that is my brief statement.

The CHAIRMAN: Thank you, Mr. O'Brien.

Senator KINLEY: I think it was also opposed by the fishermen's union man here—the 25-ton limit.

The CHAIRMAN: You mean the first witness this morning?

Senator KINLEY: Yes.

The CHAIRMAN: No, he didn't oppose it.

Senator KINLEY: In his brief, didn't he?

Senator McLEAN: How did you contact the fishermen of New Brunswick?

Mr. O'BRIEN: Through the New Brunswick Fish Packers Association. It is rather hard at times to say whether a particular section of an industry has complied with a request for remarks. There were some 480 firms involved across the country.

Senator McLEAN: Do you know that the fishing industry is the greatest industry in the Bay of Fundy?

Mr. O'BRIEN: These briefs were distributed to the association to which these people belong.

Senator SMITH (*Queens-Shelburne*): I wonder if Mr. O'Brien could tell us the names of officers in the Nova Scotia Fish Packers Association who have indicated their support.

Mr. O'BRIEN: Yes, sir, the Nova Scotia Fish Packers Association—it would take me—

Senator SMITH (*Queens-Shelburne*): I know the list of members, but I was wondering about the executive officers.

Mr. O'BRIEN: The present president is D. F. Corney of Acadia Fisheries Limited. The secretary is Mr. R. F. Johnson of 237 Hollett Street in Halifax.

Senator SMITH (*Queens-Shelburne*): Are there many other names on the list of executive officers?

Mr. O'BRIEN: I would have to go by memory, and I would hesitate to do that. The New Brunswick Fish Packers Association secretary is Mr. J. W. Stewart of 32 St. George Street, Moncton.

Senator McLEAN: That is not a fishing ground.

Mr. O'BRIEN: That is the secretary's office. The New Brunswick Fish Packers Association is a section of the Canadian Maritime Association and the members are H. W. Welch Limited of Fairhaven and of course Connor Brothers.

Senator McLEAN: As president of that concern I am sure nobody came to us.

Senator REID: With regard to whaling ships in British Columbia and owned in British Columbia is the crew all Japanese or is it 50-50?

Mr. O'BRIEN: There are very few Japanese in these crews—very few—key men plus a number of plant workers.

Senator REID: They are under the control of B. C. Packers?

Senator HOLLETT: Can Mr. O'Brien tell me in the course of his inquiries did he find out how many fishing vessels would be affected by this legislation in Newfoundland? That is to say vessels of 25 tons and over—between 25 and 150.

Mr. O'BRIEN: I wouldn't be able to quote any figures, sir. The only thing I have is the letter from Newfoundland which states "For record purposes the Newfoundland fishing trade association and frozen fish trade association agree with the third and final draft regulations."

Senator HOLLETT: The fish trade is the people who export the fish. They are not the individual fishermen.

Mr. O'BRIEN: Perhaps I should explain for the purpose of the committee the fishermen's council has never claimed to represent fishermen because as you know from one or two incidents there are no fishermen's organizations you can get at in most provinces.

We have quite a representation in that field—the Prince Rupert Co-operative, the Quebec Co-operative, the United Maritime Fisheries and including a co-operative in the Prairies. They are all directly associated with us or through 16 associations. This is not to say we represent the fishermen. We represent basically the processing and the wholesale distributing part of the industry.

Senator KINLEY: I think it is fair to say that these smaller boats are owned by inshore fishermen. The companies are not much interested in them.

Mr. O'BRIEN: The companies are interested for two reasons. One is because they own a lot of boats in the larger sizes. Secondly, I think you will agree from your own experience that when you are working with somebody you become affected and feel that what is good for one is good for all.

Senator KINLEY: There fishermen are not working for the fishery factors, they are getting fish and selling them to the companies.

Mr. O'BRIEN: They are self-employed, except in regard to the Unemployment Insurance Act and then they are employees of the fishing industry.

Senator KINLEY: You heard the Master Mariners Association complain that the giving of certificates to fishermen without examination, as the master of a 15-ton vessel, rather cheapens the certificate of the sea-going mariner who attains his certificate because of long service and a stiff examination.

Mr. O'BRIEN: I can see the gentleman's point but I think we have to realize the point of view of the fishing industry and not of the department. We had to try to do this without stopping the fishing. The department has come up with a very lenient type of legislation which would be introduced gradually to make it possible—we are satisfied on this—perhaps in ten years to come to something which will be firmer, while ensuring that in the meantime the industry will not be held up.

Senator KINLEY: That is not in the bill. They are going to make regulations and we want to be very sure. I asked the gentleman here if that was an open door or a shut door, to let the other fellows in, and he said five years, which is very good.

Mr. O'BRIEN: In this sort of thing we feel it necessary to get this started, to start it in such a way that we do not interfere with the fishing operations.

Senator KINLEY: These inshore fishermen are poor people on our coast.

Senator BRADLEY: The question is what will happen under these new regulations to the man who has been fishing all his life and is not capable mentally of acquiring the necessary knowledge to pass an examination in seamanship now. That is the man I am concerned about.

The CHAIRMAN: Will he not be covered by 116B, the proposed amendment?

Mr. O'BRIEN: If it is a question directed to me, we are not concerned with that man. We have an agreement and the department has now drafted an amendment which makes it crystal clear, that you hand that man a certificate.

Senator BRADLEY: As long as he is protected, it is all right.

The CHAIRMAN: I might read again the proposed amendment, 116B.

Senator HOLLETT: Has this to do with immigrants?

The CHAIRMAN: Only partly. This is an amendment proposed to Section 116B. It is not in printed form, it has just been brought in, it is the proposed amendment which the department advised us about at the last meeting. It is as follows:

116B. (1) Every person who is a Canadian citizen and every person who is a landed immigrant within the meaning of the Immigration Act is, on application to the Minister, entitled to

- (a) a certificate of service as a fishing master, or
- (b) a certificate of service as a fishing mate,

if within the five years preceding the date of his application and before the first day of December, 1965, he has served for one fishing season as fishing master or fishing mate, as the case may be, of a Canadian fishing vessel of over ten tons gross tonnage and is able to provide evidence satisfactory to the Minister as to his experience and ability.

- (2) A certificate issued to a landed immigrant pursuant to subsection (1) shall be valid for such period as the Minister may fix.

(3) In this section and section 116A, "fishing vessel" includes a vessel used in the transferring to shore of the catch of other vessels.

Senator BRADLEY: That protects him. That is all right.

Senator McLEAN: Mr. O'Brien, are you saying you have no idea of the number of fishing boats which will be affected by the change to 25?

Mr. O'BRIEN: I would not like to hazard a guess.

Senator McLEAN: Do you know New Brunswick?

Mr. O'BRIEN: No, sir.

Senator McLEAN: It seems to me you should know these things which will be affected.

Mr. O'BRIEN: There is a tremendous amount of detail on this. This is my file on the matter. I would like to have a better memory but it is just impossible to keep this in my head. Here is the comment from the New Brunswick Fish Packers Association on this, the last comment we have from them. It says: "Regarding your memo of the 15th and certificates of competency for masters and mates of fishing vessels, I do not expect we shall have any comments to make..." There is no way in which we can force an association to give an answer. In my experience over the years, I would say that, having distributed this three times, somebody must have looked at it and been satisfied.

Senator McLEAN: When I talked to you on the telephone the first time you did not tell me you had received that letter. I told you my objection to it.

Mr. O'BRIEN: I am sorry if I misunderstood you about this but there is no question for the last year at least but that we are supporting it.

Senator McLEAN: To the Canadian Manufacturers office you sent it? We never got any telephone message. There are different officers of our company and no such came to us.

Senator SMITH (*Queens-Shelburne*): That is not Mr. O'Brien's fault.

Mr. O'BRIEN: I have got 16 associations and do my best to keep them well advised. It is my job to approach the associations on this. We have made every effort over three years and I am satisfied we have done our job to the best of our ability on this. If there is an objection from the sardine industry, I am glad it has come up.

Senator McLEAN: There is the question of a man's competence, a question of lives lost and a question of whether a good job is being done.

Senator SMITH (*Queens-Shelburne*): I think Senator McLean's argument is that the New Brunswick Fish Packers Association, is a member of the Fisheries Council of Canada, of which Mr. O'Brien is simply the full-time manager.

Senator KINLEY: This deals mostly with the individual fisherman. I have a telegram from Adams and Knickle Ltd. which says:

If fishing schooners over twenty five tons gross require certified masters and engineers as proposed in amendment to Canada Shipping Act many schooners will be laid up as not sufficient certified masters and engineers available for fishing fleet resulting in unemployment and financial loss to fishermen and foreign exchange from sale of fishery products.

I would say they are rather alert members.

Mr. O'BRIEN: They are, sir.

Senator KINLEY: I had a letter from Laurence Sweeney, who is operating extensively in fishing in Yarmouth; and he objects to too much departmental control of experienced men such as masters and engineers. Is he a member of the Fishery Council?

Mr. O'BRIEN: No, sir, not a member of any association I know of.

Senator KINLEY: He is very much against it. I have his letter. He is a very successful and alert man and does a big business in Yarmouth in Nova Scotia. You know him?

Mr. O'BRIEN: Yes, sir.

Senator KINLEY: I have one from him. I asked other persons and they said like you. They did not say much about it. You said your people were not opposing it. That is what they said.

Mr. O'BRIEN: I did not say we were passive about it. We have put the Department of Transport to a tremendous amount of work over the last three years with three drafts of the proposed regulations.

Senator KINLEY: You go along with the department though?

Mr. O'BRIEN: Following upon the agreement which we have reached over three years of consultation, we feel that the regulations will allow the industry to operate without disturbance over a period of time.

Senator KINLEY: Then the department says that for the next five years we are going to let these men by, whether they have certificates or not. They say they are going to give them certificates. A certificate like that to a man with a 25-ton boat does not seem to me to deal fairly with the Master Mariners' Association, because they have to do what that man says. They have to have so much service, and they are only qualified by examination. I would not like to see their certificates diluted or counterfeited by the fact you have given all these men certificates.

Senator BRADLEY: It will not be an identical certificate, will it?

Senator KINLEY: Pretty near.

Mr. O'BRIEN: I think the criteria we have used, and the department, in these discussions—and I can sympathize with the views of people like Mr. Bullock, but we had to find some way of keeping this industry operating and at the same time bringing in this legislation. I know the department is not very happy about the proposed regulations; they would like to have something a little more strict.

Senator BRADLEY: It is a question of seamanship. The man who passes his regular certificate under the Board of Trade, or whoever is the correct authority, gets his certificate of a master or mate, or whatever he might be. This is only a certificate of service. There is a distinction. This does not put the man who gets this certificate of service in exactly the same class as a man who has his seaman's certificate, his master's or mate's, in the regular way.

Mr. O'BRIEN: This is a certificate applicable to and useful only on a fishing vessel.

Senator BRADLEY: Exactly.

Mr. O'BRIEN: I think this would help to answer your worries, sir, about these boats in the Bay of Fundy going over 25 tons. In the time before December 1, 1965, if the man has a letter from your office or the office of the people he works for saying he has been in charge of that vessel for one fishing season, he is automatically given this ticket. They carry on just the same as they always have, and for another five years this will persist. In the meantime, with these schools coming along, there will be an opportunity for the younger men to take a rather simple examination.

Senator McLEAN: You are not asking a man 60 years old to go and get it?

Mr. O'BRIEN: No. There seems to be some misunderstanding. There is not a man in the Bay of Fundy who ran a boat over 25 tons last summer who had to do more than write a letter and say, "Please send my certificate."

Senator McLEAN: You say five years.

Mr. O'BRIEN: He can do it this year or next year. Once he gets it, it is good enough for the rest of his life, and all he has to do is to write a letter and ask for it, but he can do it any time within five years. If he has a younger brother on the boat and he gets his ticket by asking for it, and suppose two years from now that younger brother may decide that he wants to take over, then he has had a year's fishing experience and two years from now he can get it simply by applying, without taking any examination.

Senator McLEAN: You have never given any good reason why the change should be made. Things are operating there fine. If you can tell me anyone has had any loss in competition with Maine—

Mr. O'BRIEN: I do not think I am the right person to give reasons.

Senator McLEAN: You represent the fisheries.

Mr. O'BRIEN: I could, if given sufficient time, certainly detail why we agreed with the department that over a period of time, introduced carefully so as not to disrupt the industry, we would go along with and support this type of legislation. This is not a personal opinion. You people make up my mind for me.

Senator McLEAN: Maine has at least 100 boats on the bay.

Senator BRADLEY: It means that in the next five years anybody can get a certificate, on proof of a year's service, and after that they will not get it; and I think that is very reasonable.

The CHAIRMAN: Are there any further questions of Mr. O'Brien? I think we are greatly indebted to you, Mr. O'Brien.

Mr. O'BRIEN: Thank you, Mr. Chairman.

Senator KINLEY: What do you think about the so-called mates?

Mr. O'BRIEN: This does not apply; only in the case of a vessel of 450 tons.

Senator KINLEY: That is all right.

Mr. O'BRIEN: He can go and get a mate's ticket, but does not have to have it unless it is 450 tons.

Senator KINLEY: They call them second-hands in smaller vessels. If he is not a good man, another man is put in his place.

Senator SMITH (*Queens-Shelburne*): I think it was placed on our record at the last meeting, or the one before, that the mate's part of this proposal is on a purely voluntary basis. I think that was clearly stated by the department.

I am only sorry, Mr. O'Brien, that the part of the industry with which I am more familiar—that is the small boat industry—are not a little more active in the Nova Scotia Fish Packer's Association, because I have received correspondence from people who major in that branch of the business, and they do not like it one bit. You have done an excellent job of keeping them informed, and if there is a fault I am conscious of, it is that the Nova Scotia fish packers have not repeated their requests to these dealers in the southern part of Nova Scotia to respond to what they must have had in the way of correspondence on this matter, because my correspondence indicates this hits them like a bombshell. The earlier letters are so strongly worded I do not care to put anything on the record regarding them. But their views have now been tempered to a certain extent because of what the department has indicated and what has been said by Mr. O'Brien with regard to what kind of regulations there may be. There is still serious objection over the matter of the 25 tons, but this is not Mr. O'Brien's fault, and he has done a most capable job.

Mr. O'BRIEN: Thank you, Senator Smith. This Fisheries Council is no closed corporation. I am always open for new members. I am restricted in this respect, that it must be an association. Mr. Robichaud, in speaking to us in Charlottetown, said:

At this annual meeting, sponsored by one of our effective and efficient Canadian industrial and business organizations, your membership is representative of the fisheries industry from coast to coast.

But a little later he also said:

Earlier, I complimented the fisheries industry for having an efficient and effective industry organization, or perhaps I should say organizations, because the council is a federated body.

I have referred back to this point because I believe that the adage, "The Lord helps those who help themselves," contains a substantial element of sound advice.

We have a lot of people—one was mentioned down at Yarmouth—who are perfectly welcome any day, any week, to join the Nova Scotia Fish Packers and help themselves a little bit. Our job is to service our 16 associations, and they service their members.

If these people are sincere and want to make a little contribution back to the industry and get this information, there is an easy way of doing it. We do recognize these groups, and both the provincial organizations and our own are open at all times for applications for membership.

The CHAIRMAN: Thank you, Mr. O'Brien. Are there any further questions to Mr. O'Brien. Thank you Mr. O'Brien.

With regard to Nova Scotia, Senator Smith, I was interested in the letter the Department of Fisheries there wrote which is on our record of last meeting and in which they discuss the 25-ton limit, and they seem to be in favour of it.

Senator KINLEY: How old are they?

The CHAIRMAN: I have no idea.

Senator SMITH (*Queens-Shelburne*): As a separate department of government they are months old, but previous to a few months ago it was a branch of the Department of Trade and Industry and I think it was called the fisheries department or something or other.

The CHAIRMAN: I think we have reached the point where we have heard all witnesses from outside bodies and organizations. It is now almost 12 o'clock. I don't see that we can possibly deal with this bill section by section at this meeting, particularly since there are several amendments which we have to discuss. I understand there are several other amendments which the department wishes to propose.

Senator KINLEY: We haven't heard anything about the engineers. Has anything been done about that? I wasn't here the last day.

The CHAIRMAN: If you read the minutes of last week's meeting you will find a great deal of evidence about that.

Senator KINLEY: You have settled it all?

The CHAIRMAN: We haven't settled anything. We have not passed a single amendment.

Senator REID: I move that we adjourn.

The CHAIRMAN: I suggest we adjourn until next Thursday to consider the bill section by section. At that time it will be possible for any senator to move any amendment he chooses.

Senator SMITH (*Queens-Shelburne*): Before we do that would it not be better if we still prosecuted our endeavour with regard to the contentious sections?

The CHAIRMAN: What I had in mind was this; at our next meeting we could deal with the uncontentious sections very expeditiously, and then perhaps devote ourselves to consideration of the contentious sections and consider any amendments suggested by honourable senators.

Senator KINLEY: It may be that the powers that be will want to upgrade that 25-ton limit to something higher, 60 tons or something like that.

The CHAIRMAN: It may be so.

Senator SMITH (*Queens-Shelburne*): Personally I would like to hear additional evidence from somebody from the department on the basic reasons for including these lower tonnage vessels for certification.

The CHAIRMAN: That could be. I don't think we could consider these contentious sections without having officials from the department to assist us.

The committee adjourned.



Second Session—Twenty-sixth Parliament

1964

THE SENATE OF CANADA
PROCEEDINGS
OF THE
STANDING COMMITTEE ON
TRANSPORT AND COMMUNICATIONS

To whom was referred the

Bill S-7, intituled: An Act to amend the Canada Shipping Act.

The Honourable A. K. HUGESSEN, *Chairman*.

THURSDAY, JUNE 4, 1964

No. 4

WITNESSES:

Mr. J. R. Baldwin, Deputy Minister of Transport; Mr. R. R. Macgillivray, Assistant Counsel, Department of Transport; Mr. W. S. G. Morrison, Superintendent, Nautical Examinations, Department of Transport and Mr. J. H. W. Cavey, Chief, Harbours and Property Division, Department of Transport.

REPORT OF THE COMMITTEE

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1964

THE STANDING COMMITTEE
on
TRANSPORT AND COMMUNICATIONS

The Honourable
ADRIAN K. HUGESSEN,
Chairman

The Honourable Senators

Baird,	Macdonald (<i>Brantford</i>),
Beaubien (<i>Provencher</i>),	McCutcheon,
Bouffard,	McGrand,
Bradley,	McKeen,
Buchanan,	McLean,
Connolly (<i>Halifax North</i>),	Méthot,
Croll,	Molson,
Dessureault,	Monette,
Dupuis,	Paterson,
Farris,	Pearson,
Gelinas,	Phillips,
Fournier (<i>Madawaska-Restigouche</i>),	Power,
Gershaw,	Quart,
Gouin,	Reid,
Haig,	Robertson (<i>Shelburne</i>),
Hayden,	Roebuck,
Hollett,	Smith (<i>Kamloops</i>),
Horner,	Smith (<i>Queens-Shelburne</i>),
Hugessen,	Stambaugh,
Isnor,	Taylor (<i>Westmorland</i>),
Jodoin,	Thorvaldson,
Kinley,	Veniot,
Lambert,	Vien,
Lang,	Welch,
Lefrançois,	Woodrow—(50).

Ex officio members

Brooks,
Connolly (*Ottawa West*).

(Quorum 9)

ORDER OF REFERENCE

Extract from the Minutes of the Proceedings of the Senate, Wednesday, March 18th, 1964.

"Pursuant to the Order of the Day, the Senate resumed the debate on the motion of the Honourable Senator Bouffard, seconded by the Honourable Senator Beaubien (*Provencher*), for second reading of the Bill S-7, intituled: "An Act to amend the Canada Shipping Act".

After debate, and—

The question being put on the motion, it was—

Resolved in the affirmative.

The Bill was then read the second time.

The Honourable Senator Bouffard moved, seconded by the Honourable Senator Gouin, that the Bill be referred to the Standing Committee on Transport and Communications.

The question being put on the motion, it was—

Resolved in the affirmative.

J. F. MacNEILL,
Clerk of the Senate.

MINUTES OF PROCEEDINGS

THURSDAY, June 4, 1964.

Pursuant to adjournment and notice the Standing Committee on Transport and Communications met this day at 10.00 a.m.

Present: The Honourable Senators: Hugessen (*Chairman*), Baird, Buchanan, Dupuis, Fournier (*Madawaska-Restigouche*), Hollett, Isnor, Kinley, Lambert, Lang, McCutcheon, McLean, Molson, Reid, Smith (*Queens-Shelburne*), and Stambaugh.—16.

In attendance: Mr. E. Russell Hopkins, Law Clerk and Parliamentary Counsel.

Bill S-7, intituled: "An Act to amend the Canada Shipping Act", was considered, clause by clause.

The following witnesses were heard: Mr. J. R. Baldwin, Deputy Minister of Transport; Mr. R. R. Macgillivray, Assistant Counsel, Department of Transport; Mr. W. S. G. Morrison, Superintendent, Nautical Examinations, Department of Transport; Mr. J. H. W. Cavey, Chief, Harbours and Property Division, Department of Transport.

After discussion, and on the respective Motions of the Honourable Senators: Smith (*Queens-Shelburne*), Kinley, Molson and Hollett, it was RESOLVED that the 4 following amendments be adopted:

1. *Page 3, line 8:* Strike out "twenty-five" and substitute therefor "one hundred"

2. *Page 4:* Strike out clause 5 and substitute therefor the following:

"5. The said Act is further amended by adding thereto, immediately after section 116 thereof, the following sections:

'116A. (1) The Governor in Council may make regulations respecting the certificates of competency and service to be held by masters and mates of fishing vessels, including the regulations prescribing,

- (a) the grades and classes of certificates;
- (b) the qualifications of applicants for certificates;
- (c) the examination of applicants for certificates; and
- (d) the fees to be paid for examinations and the issuance of certificates.

(2) Notwithstanding anything in this Part, regulations made pursuant to subsection (1) may provide for the issue of certificates to persons who are not British subjects.

'116B. (1) Every person who is a Canadian citizen and every person who is a landed immigrant within the meaning of the *Immigration Act*, is, on application to the Minister, entitled to

- (a) a certificate of service as a fishing master, or
- (b) a certificate of service as a fishing mate, if within the five years preceding the date of his application and before the first day of December, 1965, he has served for one fishing season as fishing master or fishing mate, as the case may be, of a

Canadian fishing vessel of over twenty-five tons gross tonnage and is able to provide evidence satisfactory to the minister as to his experience and ability.

(2) A certificate issued to a landed immigrant pursuant to subsection (1) shall be valid for such period as the Minister may fix.

(3) In this section and section 116A, "fishing vessel" includes a vessel used in the transferring to shore of the catch of other vessels.' "

3. Page 16: Strike out line 23 and substitute therefor the following:

(c) the manager or operator of a ship and any agent of a ship made liable by law for damage caused by the ship

4. Page 19: Strike out clause 35 and substitute therefor the following:

35. Section 671 of the said Act is amended by adding thereto, immediately after subsection (2) thereof, the following subsection:

(2a) Notwithstanding subsections (1) and (2),

(a) no goods shall be transported by water or by land and water, and

(b) no passengers shall be transported by water either directly or by way of a foreign port in any ship other than a Canadian ship from one place in Canada to another place in Canada both of which places are situated within the area comprising the Great Lakes, their connecting and tributary waters and the River St. Lawrence and its tributary waters as far seaward as a straight line drawn

(c) from Cap des Rosiers to West Point Anticosti Island, and

(d) from Anticosti Island to the north shore of the River St. Lawrence along the meridian of longitude sixty-three degrees west.

On Motion duly put it was RESOLVED to report the Bill as amended.

At 12.30 p.m. the Committee adjourned to the call of the Chairman.

Attest.

F. A. Jackson,
Clerk of the Committee.

REPORT OF THE COMMITTEE

THURSDAY, June 4, 1964.

The Standing Committee on Transport and Communications to whom was referred the Bill S-7, intituled: "An Act to amend the Canada Shipping Act", have in obedience to the order of reference of March 18th, 1964, examined the said Bill and now report the same with the following amendments:

1. Page 3, line 8: Strike out "twenty-five" and substitute therefor "one hundred"

2. Page 4: Strike out clause 5 and substitute therefor the following:

5. The said Act is further amended by adding thereto, immediately after section 116 thereof, the following sections:

'116A. (1) The Governor in Council may make regulations respecting the certificates of competency and service to be held by masters and mates of fishing vessels, including the regulations prescribing,

- (a) the grades and classes of certificates;
- (b) the qualifications of applicants for certificates;
- (c) the examination of applicants for certificates; and
- (d) the fees to be paid for examinations and the issuance of certificates.

(2) Notwithstanding anything in this Part, regulations made pursuant to subsection (1) may provide for the issue of certificates to persons who are not British subjects.

'116B. (1) Every person who is a Canadian citizen and every person who is a landed immigrant within the meaning of the *Immigration Act* is, on application to the Minister, entitled to

- (a) a certificate of service as a fishing master, or
- (b) a certificate of service as a fishing mate, if within the five years preceding the date of his application and before the first day of December, 1965, he has served for one fishing season as fishing master or fishing mate, as the case may be, of a Canadian fishing vessel of over twenty-five tons gross tonnage and is able to provide evidence satisfactory to the Minister as to his experience and ability.

(2) A certificate issued to a landed immigrant pursuant to subsection (1) shall be valid for such period as the Minister may fix.

(3) In this section and section 116A, "fishing vessel" includes a vessel used in the transferring to shore of the catch of other vessels."

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are situated within the area comprising the Great Lakes, their connecting and tributary waters and the River St. Lawrence and its tributary waters as far seaward as a straight line drawn

- (c) from Cap des Rosiers to West Point Anticosti Island, and
- (d) from Anticosti Island to the north shore of the River St. Lawrence along the meridian of longitude sixty-three degrees west.

All which is respectfully submitted.

A. K. HUGESSEN,
Chairman.

THE SENATE

THE STANDING COMMITTEE ON TRANSPORT AND COMMUNICATIONS

EVIDENCE

OTTAWA, Thursday, June 4, 1964

The Standing Committee on Transport and Communications to which was referred Bill S-7, to amend the Canada Shipping Act, met this day at 10 a.m.

Senator A. K. HUGESSEN (*Chairman*), in the Chair.

The CHAIRMAN: Honourable senators, we now proceed with our consideration of Bill S-7, this being the fourth meeting on this subject. I have had no further communications from anybody with respect to this bill. I do not think any members of the public wish to make representations. At any rate we have not heard from anybody. We have the departmental officials here again this morning, except Mr. Baldwin who, I understand, will be here later.

How do you think we should now proceed? Shall we proceed to discuss the bill section by section?

Senator KINLEY: Some of us would like to discuss section 3. There seem to be in section 3 one or two matters that are the subject of controversy.

The CHAIRMAN: You would like to start off with a discussion of section 3?

Senator KINLEY: If we clear that out of the way first of all then it will not cause us any trouble.

The CHAIRMAN: There are some technical amendments that Mr. Macgillivray wants to suggest.

Senator HOLLETT: Before that, might I have the form of amendment suggested? I have not seen it.

The CHAIRMAN: It is in our proceedings of last week.

Mr. R. R. Macgillivray Assistant Counsel, Department of Transport: As I understand it, Senator Smith had proposed an amendment.

Senator SMITH (*Queens-Shelburne*): What my friend is referring to is another amendment, not related to this tonnage one, which we had been discussing. It was an amendment to clarify another part of the bill but I just cannot put my finger on it in the evidence here.

Senator HOLLETT: I can look it up when I go back upstairs.

The CHAIRMAN: That is the amendment to make sure that present skippers will get a certificate. It forms part of our proceedings of last week.

Senator SMITH (*Queens-Shelburne*): As I recall that proposal it was quite acceptable. It was quite a good one.

The CHAIRMAN: It appears at the foot of page 97 of our proceedings. Would you like me to read it?

Senator McCUTCHEON: Yes, I wonder if you would read it again.

The CHAIRMAN: This is the proposed amendment to section 5.

Mr. MACGILLIVRAY: This is the amendment to section 5 read into the proceedings.

The CHAIRMAN: This is the one I am talking about, but it does also affect section 3 to some extent. It incorporates a new section 116B into the bill and it reads as follows:

116B. (1) Every person who is a Canadian citizen and every person who is a landed immigrant within the meaning of the Immigration Act is, on application to the Minister, entitled to

(a) a certificate of service as a fishing master, or

(b) a certificate of service as a fishing mate, if within the five years preceding the date of his application and before the first day of December, 1965, he has served for one fishing season as fishing master or fishing mate, as the case may be, of a Canadian fishing vessel of over ten tons gross tonnage and is able to provide evidence satisfactory to the Minister as to his experience and ability.

(2) A certificate issued to a landed immigrant pursuant to subsection (1) shall be valid for such period as the Minister may fix.

(3) In this section and section 116A, "fishing vessel" includes a vessel used in the transferring to shore of the catch of other vessels.

Senator REID: May I ask a question. Does this provide that landed immigrants will get fishing licenses as well as to Canadian citizens, and does it apply to the Atlantic as well as the Pacific coasts?

Mr. MACGILLIVRAY: As to your first question, the license to fish is issued under the Fisheries Act and is not affected by the certificate to be issued under subsection 1. That situation has not changed. As to your second question, this applies on both coasts.

Senator KINLEY: This has to do with clause 3.

The CHAIRMAN: I was going to say that. Does that satisfy?

Senator HOLLETT: I am not quite satisfied. I can see the case of, say, a master who is a master and if he should subsequently go out within the next year who is going to take over? He has nobody on his boat to take over who has been serving as a master. He may have somebody who may be very competent and who may have served as mate. Perhaps the master may even have a son who is very competent but he will be unable to take over. I am speaking of fishing in cases where it is a family affair. These are the people I am thinking of. However, I take it the department would be able to take care of a situation like that.

The CHAIRMAN: Would these be vessels of over 25 tons?

Senator HOLLETT: Yes.

Senator SMITH (*Queens-Shelburne*): How large would they be?

Senator HOLLETT: They can be up to 100 or 120 tons.

Senator KINLEY: How long will this certificate qualify him?

Mr. W. S. G. Morrison, Superintendent, Nautical Examinations, Department of Transport: My name is Morrison, Superintendent of Nautical Examinations, Department of Transport. The certificate which would be issued to this man would be valid for his life, and would entitle him to sail as master of a fishing vessel of any size whatever.

Senator KINLEY: Two hundred and fifty or three hundred tons?

Mr. MORRISON: If the owner wishes to employ him. We are attempting to maintain this status quo.

Senator KINLEY: The man in charge of a vessel of 250 tons is usually corporation employed, while the man who is in charge of a smaller boat is self employed.

Mr. MORRISON: The man who is employed in a vessel of say 12 tons may apply for this certificate of service. Once he has obtained it, and say in five or ten years time he decides to build himself or to buy a bigger vessel of say 30 tons, this certificate of service would entitle him to carry on and sail as master of his own craft.

Senator KINLEY: Yes but he could go to a steel beam trawler man. There is another man who was here, from the master mariners' association, and he says our man must serve three years, and that only qualifies him to take an examination—and I know it is rather a good examination. I am speaking of the captain now. I think you destroy the value of the certificate in the hands of that man, who in a general way has become a master mariner. You see, this also covers the vessel carrying fish. I think you would be making a serious invasion in relation to the character of their certificates. Why put a restriction on these small men now?

Senator SMITH (*Queens-Shelburne*): Are we on the same subject still?

Senator KINLEY: Yes, this is exactly the subject.

Senator SMITH (*Queens-Shelburne*): We are off the point.

Senator KINLEY: No.

Senator HOLLETT: On what grounds are you including fishermen, like Labrador fishermen, and off-shore fishermen in Newfoundland.

Mr. MORRISON: Do you wish to have the reasons for setting the limit at 25 tons gross?

Senator HOLLETT: Yes.

Mr. MACGILLIVRAY: Mr. Chairman, may I make a remark on this matter? I think possibly that the proposed amendment that Senator Smith was considering putting forward in connection with clause 3 would make a difference because, as I understand it, he wished to have clause 3 changed so that the application would not be to vessels of 25 tons, but rather to vessels of 65 feet in length, which brings up the tonnage to approximately 50 to 55 tons. Therefore, the requirement would only apply on vessels of over 65 feet in length, if the Senate accepts the proposal that Senator Smith intends to put forward and that the department is quite agreeable to.

Senator KINLEY: Where is that in this bill?

The CHAIRMAN: It is a new amendment, which I understand Senator Smith proposes to make, and it is an amendment to section 3. If that is proposed, I think we should for the moment confine ourselves to section 3 and the proposed amendment to section 3.

Senator KINLEY: All right.

Senator McLEAN: Mr. Chairman, I have been to the coast since our last meeting. I was at the Bay of Fundy, and there has been no consultation whatsoever with the fishermen on the Bay of Fundy, as far as New Brunswick is concerned, and no consultation with Maine. There are three parties concerned, Nova Scotia, New Brunswick and Maine. Maine has rights on the Bay. I telephoned myself to the largest fishing company in Maine, and they said there was no change. You are simply turning the Bay of Fundy, so far as small boats are concerned, over to the State of Maine, because they are not changing the regulations. As you know, the coast of Maine is on the Bay of Fundy. They have perhaps a hundred boats on the bay.

There has been talk about taking a course at college. Who is going to do the teaching at the college? These people were brought up in the bay, and they

know what they are doing. Some time ago I travelled up the bay in a deep fog, and I said to the captain, "This is a rocky shore, you mustn't hit it." He sounded the whistle and he said, "We are 300 feet from the shore—I know by the echo." When I asked him how he would find the lighthouse to turn in, he looked at his compass and his watch and said, "It will take 15 minutes." He was there in 15 minutes. Where can teachers teach that sort of thing? You have to learn it on the Bay. You might be able to teach a younger generation, but what about these men who are perhaps 55 or 60 years old. Five years is no good. I say that to drastically reduce the tonnage from 150 to 25 will put thousands of people out of work on the islands. They are a long way out from the main shore, and you can hardly expect them to go to St. Andrews to go to college. It will be years before you get any benefit from training in a college. You want to come here and put all these men out of business.

Mr. MORRISON: May I explain that we have no intention of forcing the older generation to go to college. This is the idea of issuing the certificate of service. They will simply get it on the basis of a letter from some person having knowledge of the facts.

Senator McLEAN: In other words, you want to take over, and you have never visited the bay. I know the conditions there, I have been 40 years on the bay. Is there any good reason for this change? I have asked a plain question, and I want a plain answer.

Senator SMITH (*Queens-Shelburne*): May I ask Senator McLean a question? What is the length of a boat in your sardine industry down there that you are interested in, is it over or under 65 feet?

Senator McLEAN: We do not do any fishing ourselves.

Senator SMITH (*Queens-Shelburne*): Well, the fishermen who do the fishing?

Senator McLEAN: I think they would be over that.

Senator SMITH (*Queens-Shelburne*): The greater numbers of your sardine fleet are not large boats, as I have observed over the years.

Senator McLEAN: As you know, we have no railroad. We use transportation to carry fish out, we have no railroad there. We do not use any passenger boat.

The CHAIRMAN: I think we would be able to make more intelligible progress if Senator Smith (*Queens-Shelburne*) has an amendment to propose to section 3.

Senator SMITH (*Queens-Shelburne*): Mr. Chairman, I have been interested in the subject for a great many years, and from my correspondence and personal knowledge I think it is in the public interest to increase that 25-ton limit upwards to a considerable degree. I am still in favour of a start being made on certifying fishing vessels that are not now certificated. It has been made very evident to us that the Fisheries Council of Canada, the main organization are concerned with the operation of larger draggers that do not require certified captains. They want to have certified captains. They want to raise the standard so that in the future they will have a pool of trained people to fill those vacancies which will be created as we develop upward in the fishing industry. I can understand their point of view. I think their own personal concern is not so much with this large number.

There are hundreds of smaller long liners and draggers that go out to the Bay of Fundy, and so on, that are somewhere between 25 tons and 50 or 60 tons, or perhaps up to 100 tons. They are not so concerned with those, and have not taken their position into consideration. But I am not convinced, and my advisers are not, that there is any hazard to the present operation and that there is any particular reason to include all these smaller boats, and it is a fact

that that segment of the industry has not been consulted directly by the department. I cannot blame them, because they have to operate through some sort of an organization, and they are too busy making a living to come forward. I think that public opinion in the southern part of Nova Scotia is going to resist that sort of thing. I have carried on a conversation with some of the officials in the department, and they understand. I think that what they are quite prepared to propose will take care of almost all the problems stated by Senator McLean.

Senator Kinley tells me that he has been holding the opinion that we should not touch the section as it now stands. I do not know whether he will be impressed by what I say or not, but I think we have to look a little to the future, and if we can take a first step, without embarrassment, by knowing what the intentions are, it would be in the public interest to do so. I do not mind a limit of around 65 feet. I am not wedded to that because it is slightly over the limit under which long liners for some years had been subsidized.

The CHAIRMAN: You mean the building of them?

Senator SMITH (*Queens-Shelburne*): In the building of them. Government policy has changed in recent years, and the federal Government is now subsidizing up to any size, steel or wood vessels. As a result of this subsidizing program those longliners are all in a class under 65 feet, and if we could eliminate all that clause we could take care of an unpopular situation and take care of the problem expressed by a letter to the committee from the Nova Scotia Government on this matter.

I believe that the department first thought in terms of 50 tons, and it was pointed out to them by the Department of Fisheries in Nova Scotia that this was an awkward change because some vessels were just under and some just over. I would like to hear us discuss, and also to have the comments, perhaps, by Captain Morrison on what I have been talking about to other officials in the department as to the limit that would not be an awkward limit and which would eliminate this problem.

Senator KINLEY: Just a moment Mr. Chairman. The provision says 25 tons, which is a bit ridiculous affecting the small fishermen. They admit that. I contend that a ship under 100 tons should not be fishing off Newfoundland or the coast of Nova Scotia. Vessels of that size are too small—they are between the waves, so to speak, and all our trouble has been with vessels under 100 tons. We think a vessel under 100 tons should have a proper captain, and not a man that gets a certificate on the recommendation of someone, whoever he might be.

I should like to remind the committee that in Nova Scotia we have a very fine arrangement. As far as I know, there is no fisherman's union. They all get along together. If you get fishermen clashing with the fish packers, you will have trouble. Our fishermen work on shares, and work together. With regard to this provision of 150 tons, when we met some years ago in this committee, I moved, seconded by Senator Smith (*Queens-Shelburne*) that it be "Resolved that clause 6 of the bill be deleted."

Senator SMITH (*Queens-Shelburne*): That was in 1956.

Senator KINLEY: In 1956. There has been no change since, and there has been no change in the conditions since. I do not want to put a man who is captain of a 250 ton ship in the same class as a man who is running a 25 ton ship, just because the latter has a certificate in his pocket. I admit Senator Smith's and the Government's suggestion that we amend the bill to 65 tons has merit, but I do not think it goes quite far enough.

It is said that we are doing all this in the interests of defending education. Do you think we are defending education by opening a door and leaving it open for five years? Another thing, I do not want these fishermen to become

in any way dependent upon the fish packers who are operating throughout Canada. I had a letter from a member of the Salt Fish Exporters' Association the other day, who is a member of the Fish Packers Association in Lunenburg.

I think his objection will disappear if we give him a certificate for nothing, but I think that would be a palliative. I do not think it would be a cure.

We have to protect our masters and mariners, such as that man who came the other day and told us that story. My father was a master mariner and a fisherman too. I remember my mother, who was a school teacher, teaching him navigation by the light of a lamp. When he got to be a master mariner, why, he went on foreign vessels.

These certificates should be worth something. The main thing is that you should have a boat of over 100 tons gross in order to go fishing in the winter-time. A smaller boat than that when used in the wintertime is hazardous. If you make this 100 tons then I think it would be splendid.

Senator HOLLETT: Would the department consider leaving section 114, and not amending it by clause 3 at all—that is, leaving it at 150 tons gross until such time as the matter has been given more study? I am quite sure that it will affect many people, and I am speaking of Newfoundland and Labrador.

Senator REID: Give us the reasons why this is being done.

Mr. MORRISON: The reasons for this were partially put forward at the first meeting. We have records of various accidents that have occurred to fishing vessels over the past 13 years, and the department felt we ought to do something about them.

Senator REID: Were they due to negligence?

Mr. MORRISON: They were due to various causes, and in looking at the causes we felt that in about 80 per cent of the cases, as I recall, something should be done by way of educating the men in order to prevent these types of accidents. It was not thought that we could cut out the accidents altogether, but we did think we could cut down on them.

Senator BAIRD: Were they due to faulty navigation?

Mr. MORRISON: There were various causes, such as collision, fire and bad navigation, and, occasionally in a small percentage of cases, they were due to faulty seamanship.

Senator McLEAN: I can say this right now, that the average of accidents on the Bay of Fundy is less than anywhere in the world. I know what is going on there. Accidents in the Bay of Fundy are very few and far between.

Mr. MORRISON: We were looking at accidents from the national point of view.

Senator McLEAN: Sometimes gasoline engines explode, as they do explode in a boat, but that occurs in a city. As far as groundings are concerned I know that among the fisherfolk down there they are very few and far between. We had an accident to a Government wharf recently which might have killed 50 people had it occurred 20 minutes earlier, but no attention was paid to that at all and that was a real accident.

Mr. MORRISON: We have had it reported to the department that there has been, on the average, one accident a week occurring to a fishing vessel on one coast or the other.

Senator McLEAN: On the Bay of Fundy?

Mr. MORRISON: Not on the Bay of Fundy in particular. We have not analyzed these figures from the point of view of geographical areas.

Senator McLEAN: I realize that the boats are becoming larger. The Russians are there with the best fleet on the coast, but they have not yet invaded the Bay of Fundy. They have not bothered us there at all, but off the coast of

Maine and off the coast of Nova Scotia there are Russian vessels, and they are off the coast further down. They are very advanced vessels—more advanced than the ships of any other nation. They have hospital ships, repair ships, factory ships and store ships, but they have not come into the Bay of Fundy.

Mr. MORRISON: With regard to the accidents reported we have found, from looking through the reports from 1960 to 1963, that 33 per cent of the accidents reported were to vessels of over 50 tons gross; 25 per cent were to vessels of between 25 tons and 50 tons gross; and 42 per cent occurred to vessels of under 25 tons gross.

Senator McLEAN: In the Bay of Fundy?

Mr. MORRISON: No, we have no figures for the Bay of Fundy.

Senator REID: Is that on the Atlantic coast or the Pacific coast?

Mr. MORRISON: That is on both coasts.

Senator KINLEY: I think you will find that most of the accidents were due to small boats fishing in inclement weather in the wintertime.

I might say, Mr. Chairman, that I have received a memorandum from our engineer, who is highly qualified and who knows the fishing game well, in which he says:

Last week at a meeting in your office, you asked me to have typed out some of the notes which you wrote down during the meeting regarding equipment on fishing vessels.

You asked what electronic equipment is installed on the fishing draggers, and we mentioned the following:—

Radio telephone—Just about every dragger has at least one of these. Some of the larger draggers have more than one. The sets vary in price from about \$700 for a small set used by longliners which would have an operating range of 75 miles up to radio telephones with ranges of 400 to 500 miles, which would be priced up to \$2,000. Maritime Tel. & Tel. has the franchise for all telephone ranges on shore in Nova Scotia so that the fishing boats are obligated under law to call through a shore station which relays the call by wire to its destination. We receive these calls in our office on our regular telephone.

Lorans—"Loran" is an abbreviation for "long range aid to navigation". Most of the draggers have at least Loran sets. Some now have as many as three sets. The operator only uses one of these sets at a time. The reason they have more than one set is to insure that they have at least one set that operates. After the war, when the fishing boats first started to use these sets, the sets were entirely war asset sets, which came out of aircraft. Many of these sets are still in use. However, now some commercial sets of later design (transistorized) are in use. The old war asset sets could be purchased for as little as \$150. The new commercial sets cost in excess of \$1,500. Kelvin-Hughes, which does not now have a commercial Loran set on the market, will have one on the market this year that will be in this price range.

These instruments are used to plot the ships position on the ocean. They do by cross bearings on the Master Stations and Slave Stations located all along the coast. Working range for Lorans vary considerably because of location, weather, atmospheric conditions; but they can attain ranges up to 500 miles.

Decca Navigator—This is a particular type of navigation instrument made only by the Decca people. It is widely used because the instrument is very accurate. With this instrument the position of a fishing boat can be plotted within 50 feet on the ocean. There have been instances when fishing boats have lost scallop rakes one trip and have gone out the next

trip and picked them up in other rakes. They put themselves on position by means of a Decca navigator.

Decca has a large service operation. They are the only people who service these instruments. The fishermen do not buy these sets. They rent them for about \$250 per month.

Radar—Radar instruments are made by just about every electronic firm in the business. Many of these are obtained by the ships on a rental basis, which includes the servicing of equipment. Just about every fishing boat down to the sixty footers have a radar set. There is a large variety in the size as well as the makes of radar sets. The radar draws out a picture of the area surrounding the ship. The ship is in the centre and the beam makes a complete circle around it showing up any objects such as other ships, coastline, and even buoys. The instruments have different scales and have short and long range depending upon the requirement of the operator. The biggest use for radar is, of course, for fog and at night when the boats can proceed at cruising speed. I understand sometimes they go at full speed depending entirely on their radar.

Depth Sounders—Most of the fishing boats from the forty footers up to the big draggers have depth sounders. They run in price range from \$160 up to \$2,400.

Fish Finders—This is a special type of depth sounder, which can be used to find fish. The beam of this instrument can be directed at an angle ahead, behind, or alongside the dragger. The instruments are sensitive enough to obtain an echo reading off of shoals of fish.

Most of the scallop draggers and large ground-fish draggers have these fish finders. Here again, there are many different makes, and models which vary greatly in price range. None of the fishing draggers that we know have a crew member who is designated as the ship's electrician only. I am advised that the fellow who seems to have the most to do with the electronic instruments is the captain himself.

You can see what the captain must do on these bigger draggers. He has to be a pretty good man.

The ship's engineers seem to look after the ships' generators, lighting, wiring, et cetera, which would be considered an electrician's duties; but the captains look after the electronic instruments. The point is that many of the fishing captains lack any formal training in conventional navigation—even the ability to take fixes with sextants or to do dead reckoning. They have grown up with electronic instruments and use them almost entirely.

The newest draggers are now being equipped with automatic pilots. Many ships are equipped with automatic pilots. The automatic pilots are strictly not electronic instruments. They are largely mechanically operated, and some are hydraulically operated.

This shows that the big dragger is a highly scientific thing. The captain of it must be quite a man. He has equipment worth of a quarter of a million dollars under his control, and he is fishing on shares. He must be a man who can lead men. He must be a man who can produce, otherwise he will not be there. He is a man whom we are anxious to see well qualified. But, why interfere with the little fellow of under 25 tons, and give him a certificate on the report of a competent authority that he is qualified. This interferes with his liberty. You know, people are concerned today about liberty. They do not like too much Government control. President Eisenhower said that the best government is the least government.

The CHAIRMAN: So does Senator Goldwater.

Senator KINLEY: Well, Goldwater is doing pretty well. He is showing the dissatisfaction of the people, anyway. There are 24,000 fishermen on our coast—I think that is a low estimate—and they are individuals. To have the Government interfere with these men means that inspectors must come in to do the policing, and you are going to have correspondence going back and forth, and thus many more civil servants. My friend there thinks it will not mean that, but I do not see why not. I do not want to see the officials building up a dynasty for themselves. That has been severely criticized by the commission that investigated this matter. We say: "Let us alone a bit". When we go fishing we employ an Indian to guide us in the woods. He knows where to go, and these fishermen also know where to go. I think this might be raised, but a 100-foot boat means 150 tons gross, and you are into that now. Conditions have not changed. I think 65 feet is a little low.

Senator SMITH (*Queens-Shelburne*): It was just a basis for discussion. It might be helpful to the committee—particularly to those who do not have as much direct contact with the sea as Senator Kinley has—if I indicate the two classes of vessels that I have in mind. One feature we wanted, along the lines suggested by Senator Kinley, would eliminate a whole class, and in the second place it would include a class which is not now included. During the last few years there has been a great development in scallop draggers. There has been a tremendous increase in that industry. A very rich resource which was not taken from the sea a few years ago is now being taken by a class of vessel which will be included but which up to now has not been included.

I looked up the record in the list of registered vessels, and I find that there is one that sails out of the port of Liverpool which is a typical new scallop dragger. Its name is the *Flying Cloud*, and it has been very successful since it went into operation during the past year. It is an 83 foot vessel with a gross tonnage of 142. That scallop dragger has on board unskilled people whose function mainly is to shuck—that has a technical meaning—the mussels to remove the meat, which is the scallop itself. They are high school boys and other people around who, if they are smart with their hands, can make pretty good money. There are 15 or 18 of those men on that boat and they are nothing more than passengers.

I believe that perhaps we might regard these particular kinds of ships as passenger ships, and I think there is some concern for safety at sea which should be expressed by the certificate issued to a man who is in charge of these. These are usually privately owned or owned by a small association of people. In that class of ship there are quite a number to be included, even with this limit now changed to 100 tons. Then the class that that kind of vessel has superseded is exemplified by another which I know quite well, ships built under the subsidy program I mentioned a while ago, and there is one called the *Pat and David* which is 56½ feet in length, and is 54 tons gross. There was a time some years ago when these small long liners took more chances going out in winter weather than they do today. There were some disastrous results. There was one bad example when two or three of these long liners were lost trying to get back into Lockport. They were out there in winter weather, where they had no business being, but this was their only way of making a living otherwise they would be at home sitting in their rocking chairs. Four or five members of the crew lost their lives. It was a tragic thing.

Very few of that class can go to sea in wintertime when we have regular winter storms. They have to stay home. So they are fair weather ships, and I don't think we need have the same concern for having a certified master on them. If that limit was 100 tons it would eliminate the necessity for that class to be included in the present legislation.

I want to point out something else; if we are now going to raise that limit according to what Senator Kinley proposed to 100 tons, I think we should in parenthesis increase their eligibility for a captain's certificate in accordance with that raising, and I don't believe that somebody who has been footling around the bay in a lobster boat of ten tons should be granted a captain's certificate which would qualify him tomorrow to get on one of these 140 ton scallop draggers. But I do believe that a man who has served in the *Pat and David*, or something like that, is really qualified after a year. He is really qualified to take any lobster boat or scallop dragger and he will be qualified to be accepted by the Lockport Company. I would ask the department to give consideration to raising the tonnage requirement to the qualification for an automatic certificate. We would then strengthen the meaning of the certificate.

The CHAIRMAN: You mean in the case of 10 tons?

Senator SMITH (*Queens-Shelburne*): Yes because that includes a lot of little lobster vessels that do not go to sea.

Senator KINLEY: I think we are getting somewhere, but I want to say that the small scallop vessels, the small scallop fishermen are less than 100 tons. I know Digby. Lockport is coming up. But Lunenburg and Yarmouth are the two places where scallop fishing is flourishing. They have vessels 100 feet long, and that is 150 tons. Their measurements are pretty substantial on account of the engine space and that. I have a letter from Mr. Lawrence Free who is one of the large scallop fishers. He does not belong to the Fish Packers Association, as Mr. O'Brien told us the other day. I have a letter from him and I think he is more extreme than I am.

The Lunenburg situation—I have a telegram from the man who is now president of the Salt Fishing Association which I think is outmoded. But the whole thing is based on the fact that state control of people who should be free is bad. If there was a reason for it, it would be understandable, but there is no reason for it because you are going to give those certificates away for five years. That is what the gentleman told me the other day. I would like to see on these boats which must use all these instruments, ships of 600, 700 or 800 horse power engines, ships which are a complicated piece of engineering—I want to see those certificates worth something. I am backed up by the Master Mariners' Association. If you have a 100 foot fishing boat it can go out in wintertime.

There has been no bad accidents to these fishermen except by inclement weather, and by fire, which is an engine room trouble. And nowadays with the equipment they have if they go on fire they can be saved. The trouble down in the Bay of Fundy was not with people who stayed out in bad weather, those who stayed out survived, but those who came to shallow water to try to get to port did not survive.

The CHAIRMAN: There are two suggestions—we are still on section 3.

Senator KINLEY: Well let us deal with section 3 because that affects the other sections. When you get to 100 feet long you get to the region of 150 tons.

The CHAIRMAN: I gather there are three suggestions before us with respect to section 3, first that we should increase the limit, the length limit to 65 feet. Secondly, we should increase to 100 tons, and thirdly we should leave it alone.

Senator BAIRD: One hundred feet.

Senator KINLEY: One hundred feet.

The CHAIRMAN: And 65 feet.

Senator KINLEY: One hundred and fifty tons.

The CHAIRMAN: I am only a landsman, as I am sure are most of the members of the committee. I think Senator Smith's suggestion was that it should be 65 feet. Your suggestion was 100 feet.

Senator KINLEY: One hundred feet is better than nothing, but I would like to leave this alone.

The CHAIRMAN: The third suggestion is that we should leave the act alone. I think we might have the view of the department on that.

Senator McLEAN: I see no good reason here for changing the law.

The CHAIRMAN: You are in favour of suggestion No. 3.

Senator HOLLETT: It is 150 tons now.

Senator KINLEY: Is it gross tons or net tons you are speaking of?

Mr. MORRISON: Gross tons.

Senator HOLLETT: Leave the section as it is now. Would there be any objections from the department? For the time being we are in transition stage from the fishing of our generation to that of the present generation.

Mr. MACGILLIVRAY: It has been suggested that this should receive more study, but I would point out, as you will recall, that it was first introduced in 1956, and it has been studied since then. The department's object in this amendment is safety. It is a fact that there have been many accidents to fishing vessels throughout Canada, and a good many of the accidents, a large percentage of them, are traceable in our view to the fact that the people in charge of the vessels were not adequately trained for the size of the vessel they were operating. Now there are two points which have been brought up. Firstly, the suggestion that in clause 3, the figure of 25 tons gross tonnage should be changed. Now we, the officials, have no instructions on an increase to either 100 feet or 100 tons, or 150 tons.

Senator REID: Why did you settle on the 25 tons.

Mr. MACGILLIVRAY: It is not correct to say the figure was 150 tons because the figure was unlimited. Vessels solely employed in fishing, of any tonnage, are not required to have any certificate for the master, and we are proposing a certificate that is much easier to get, even for the person who is going to have to qualify by examination—it will be a much simpler examination for him than the examination now for a master's certificate. This is a new category of certificate that will require much less in the way of qualification than the present master's. The plan of the department for the regulations to be made under section 116A has been studied by the Fisheries Council and they are satisfied that our proposal is for a simple enough certificate that these people will be able to qualify for it.

Senator HOLLETT: Could you give me the percentage figure of accidents—what percentage of accidents occur to fishing vessels?

Mr. MORRISON: We have not made any comparison as between accidents occurring to fishing vessels as distinct from accidents occurring to commercial vessels. We didn't make that comparison.

Senator McLEAN: Don't you think you should have?

Senator KINLEY: The little fellow knows well enough that he should keep out of the way of the big fellow or he will get in trouble. The fishing boats and even the yachtsmen know they must keep out of the way of liners in fog or they are in trouble. They know exactly where they are. They can tell by the echo from the shore. You know sound travels a mile in five seconds. They are like Indians in the woods. Leave them alone.

Mr. MORRISON: With respect to comparisons our statistics show that there are a large number of accidents not reported as required, and therefore there was little sense in comparing the two since the basic statistics are not absolutely reliable. It would give us a false picture.

Senator KINLEY: You are right. There is no certificate needed for a man in a fishing vessel if she is fishing but if he goes and does something else he needs it. The whole situation has changed. The qualifications are different. The qualifications now are those of a scientific time. If you give a man a certificate on a 150 ton vessel he is in control of a large piece of property, and he has to control 20 or 30—at least 20 men. He has to be good and he should have a certificate. But your lines are not quite right. They should be along the lines of a scientific development.

Mr. MACGILLIVRAY: That is the point I was coming to. In the bill consideration had to be given to the situation of present masters.

We have stated it in the very broadest terms. At the moment, the man who is master or is running a ten-ton lobster boat is entitled by law to be master of the largest fishing vessel we have; and, as we always have done whenever the department has proposed changes in the certification of officers of ships, we have in this bill proposed that those who are presently sailing in the capacities that are to be affected will continue to be able to sail in those capacities for the rest of their lives, without examination; that is, they get a certificate of service which entitles them to carry on in their present capacities.

Senator KINLEY: But you have not shut that door; that door is open for the next five years.

The CHAIRMAN: May I say, just for clarification, that perhaps we should deal with one section at a time, otherwise we are going back and forth all the time between two sections?

Senator SMITH (*Queens-Shelburne*): Mr. Chairman, to bring this matter to a head, I offer this as a compromise, I move that the words "twenty-five", appearing in (b) of clause 3 be deleted, and substituted by the words "one hundred". Then (b) would read:

ships not exceeding one hundred tons gross tonnage—

Senator KINLEY: That is agreeable to me; but will the department accept that?

The CHAIRMAN: Senator Kinley, after all, we are the Senate of Canada. Of course we can hear the views of the officials on whether they would like this amendment or not, but I do not know that the officers of the department are qualified to discuss questions of policy with us. That is up to Mr. Macgillivray.

Senator HOLLETT: This would only apply to ships engaged in fishing?

The CHAIRMAN: Yes, the whole section. I do not want to embarrass you, Mr. Macgillivray.

Mr. MACGILLIVRAY: That is all right, sir. As to 100 tons, the officials who are here have no instructions on that. We have instructions that we were to express the department's concurrence with Senator Smith's proposed amendment to bring it up to 65 feet registered length. The increase to 100 tons is somewhat greater.

Senator SMITH (*Queens-Shelburne*): What increase in length is that?

Mr. MACGILLIVRAY: Oh, I think it is considerable. Sixty-five feet, we estimate, is between 50 and 55 tons. One hundred tons is twice as large a vessel, but of course we are in the hands of the committee, as you say, Mr. Chairman.

Senator KINLEY: I second the motion.

Senator McCUTCHEON: Question.

The CHAIRMAN: Any further discussion?

Senator SMITH (*Queens-Shelburne*): If we do not accept this, we are going to wind up with the section removed completely.

The CHAIRMAN: The committee is ready for the question. The motion of Senator Smith, which seems to be seconded by various honourable senators, is that subsection (b) of section 3 be varied by deleting the words "twenty-five", and substituting the words "one hundred". Is that agreeable to the committee?

Hon. SENATORS: Carried.

The CHAIRMAN: Carried. Now, perhaps we may deal with section 5, as to certificates for masters and mates of fishing vessels which are required to be obtained, and the proposed amendment.

Mr. MACGILLIVRAY: As I was just beginning to explain about the proposed amendment, sir, I take it from Senator Kinley's remarks that he feels we have gone too far in our proposed section 116B amendment in that we will allow certificates of service to people who are now serving on very small vessels, and this will enable them to serve as masters of very large vessels. At the present time these people are entitled to serve on those vessels; and, as I say, we are just following the usual practice of the department in cases of this sort, not to interfere with the existing rights of individuals. Although, perhaps I should put it this way, the future rights of individuals or the rights of future individuals. The department proposes this amendment in the interests of safety.

Senator KINLEY: We will have no future for the inshore fisheries.

Senator McLEAN: Where are you going to get your teachers from?

Senator KINLEY: I think they are going to do that in Nova Scotia.

Mr. MORRISON: There are a number of colleges in New Brunswick.

Senator REID: What about those who are already acting as masters, but without certificates. How will they be affected?

Mr. MACGILLIVRAY: It will not affect them. Those acting as master or mate on a fishing vessel will obtain certificates and will be able to continue in that occupation, and if they are acting as master and mate any time up until December 1 next year they will be able to qualify, by asking any time within five years of that, for their certificate without examination.

Senator KINLEY: Will this amendment change the situation?

Mr. MORRISON: I don't believe so, sir.

Senator KINLEY: Do you think you ought to let them go five years or so without a certificate in the proper form?

Mr. MORRISON: The reason for doing this is that we have found in the past there are always a number of people involved who are slow to apply for the certificate and the idea is to give them five years in case we miss anybody and catch up with them later on.

Senator SMITH (*Queens-Shelburne*): I wonder, Mr. Chairman, if we could have the official view, if there is one, on the suggestion that I made a while ago about raising that qualification for someone who has been on a 10-ton boat, and would have to make a sudden jump from 7 tons up to 100 tons. It seems to me that we should now enter into that 25-ton classification.

Mr. MORRISON: The reason for setting 10 tons as the requirement for the certificate of service was tied up with the proposed 25 tons, the thought being that the fellow with the say 10 or 12 ton vessel might quite well within his lifetime be able to purchase a large vessel over the 25 tons gross.

Senator KINLEY: Now the man in a 100 ton vessel is secure. You are separating the inshore fishery from the deepsea fishery which you should do. The deepsea fishery is very successful. The inshore fishery is not going to survive for long without the 12-mile limit.

The CHAIRMAN: Do you think in substituting 100 tons for 25 tons in section 3(b), it should also include a 10-ton limit?

Senator SMITH (*Queens-Shelburne*): It does not make sense to leave it down as low as that. I think we should raise that requirement.

Senator HOLLETT: Is it not just as dangerous to navigate a 10 ton ship as a 100 ton ship?

Senator SMITH (*Queens-Shelburne*): No.

The CHAIRMAN: What is the suggestion, to increase that from 10 to 25, or something of that kind?

Senator SMITH (*Queens-Shelburne*): That would bring it into the class of those long liners I have been talking about, and if we leave it as it is there is no qualification required at all, and it makes no sense.

The CHAIRMAN: Shall section 3 as amended be carried?

Hon. SENATORS: Carried.

The CHAIRMAN: Coming to section 5, I do not think there was any question about the proposed new section 116A in itself, was there?

Senator KINLEY: Well, that is government control, and they can make regulations according to the act.

The CHAIRMAN: Yes.

Senator KINLEY: And the government has no business to interfere with people in vessels of under 100 tons.

The CHAIRMAN: Sections 3 and 5 tie in together. Shall section 5 carry? I am going to read the amendment again, and then the new section 116B; but, first, shall section 116A now proposed in section 5, carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Then I will again read the proposed section 116B:

(1) Every person who is a Canadian citizen and every person who is a landed immigrant within the meaning of the Immigration Act is, on application to the Minister, entitled to

(a) a certificate or service as a fishing master, or

(b) a certificate of service as a fishing mate,

if within the five years a certificate of service as a fishing mate, preceding the date of his application and before the first day of December, 1965, he has served for one fishing season as a fishing master or fishing mate, as the case may be, of a Canadian fishing vessel of over ten tons gross tonnage and is able to provide evidence satisfactory to the Minister as to his experience and ability.

(2) A certificate issued to a landed immigrant pursuant to subsection (1) shall be valid for such period as the Minister may fix.

(3) In this section and section 116A, "fishing vessel" includes a vessel used in the transferring to shore of the catch of other vessels.

Now, is it suggested that we substitute 25 tons for 10 tons?

Senator KINLEY: I am not sure about this. I think we are being inconsistent. We are now getting into a pretty good classification of a captain who shall from now on be certified, and I do not think that we want to see somebody who has just had experience in a 10-ton boat qualified by a captain's certificate. The ordinary small long liner goes down to 40 or 42 feet, that is, 25 tons. To bring this matter to a head, I move that 10 tons be changed to 25 tons.

Senator MOLSON: Mr. Chairman, may I ask why a certificate is necessary in this instance? Here is a man who receives an unconditional certificate. When certificates are issued in various other occupations there are frequently limits set of some sort. Apparently the proposal here is that if a man gets a certificate at the present moment for having been at sea for a year, or has been fishing for a year on a 10-ton boat—

The CHAIRMAN: Having served as a master or a mate.

Senator MOLSON: Yes—he will get an unconditional certificate. That is not the practice in many other fields. There is frequently some limit. Would it not be wise to consider that a certificate should be available within a certain range of vessel?

Mr. MACGILLIVRAY: The present situation is that this man is now entitled under the law to go to sea as master of a 400-ton fishing vessel or one of any tonnage. Obviously, the owners of such a vessel are not going to send him unless he is competent. We are simply making sure that at law he still remains entitled, and I do not think the owners will be any more inclined to put him in as master of such a vessel if he is not competent than they are at present.

This is, as I say, the usual thing when we are proposing new restrictions on the freedom of the individual to employment at sea; we try not to have our proposal have any impact on the people who are presently serving or who are entitled to serve in those capacities.

Senator REID: From what section were you reading?

The CHAIRMAN: It was the proposed amendment, section 116B, to follow immediately after section 116A. I think Senator Smith moved an amendment that the words "twenty-five tons" be substituted for the words "ten tons". That part of the new section would then read:

—if within the five years preceding the date of his application and before the first day of December, 1965, he has served for one fishing season as fishing master or fishing mate, as the case may be, of a Canadian fishing vessel of over 25 tons gross tonnage and is able to provide evidence satisfactory to the Minister as to his experience and ability.

Is that amendment satisfactory?

Senator KINLEY: The question now is whether he should be taught on a small vessel, or on a vessel on which he has experience. I am not sure about this.

The CHAIRMAN: There is no question of his being taught. He is entitled to a certificate.

Senator KINLEY: Yes, but should we continue—we are not interested in putting in something new, because it is 150 tons under the act. We are changing that act. Now, how should a man be qualified to receive a certificate when we say that if he is on a ship of up to 100 tons he does not need a certificate? What should be his experience? I think it should be on a fair sized vessel that goes to sea.

The CHAIRMAN: I do not know whether I can answer you on that, but it would be an amendment we make to clause 5. The only people affected by section 116B would be those people who have in the past sailed on vessels of between 100 and 150 tons.

Senator KINLEY: That looks all right.

Senator BAIRD: Is Senator Molson's question answered?

Senator MOLSON: Yes.

The CHAIRMAN: Are you ready to consider the amendment to 25 tons? Are there any contrary minded?

Hon. SENATORS: Carried.

The CHAIRMAN: Does that conclude our examination of clauses 3 and 5, which are perhaps the most highly contentious parts of the bill?

Senator KINLEY: How much ministerial discretion is there in this bill? There has always been a lot of ministerial discretion in respect of getting a foreign vessel to do certain work, and this bill changes the whole thing on the St. Lawrence. How much discretion is there going to be?

The CHAIRMAN: Are you dealing with just these sections?

Senator KINLEY: No, while the officials are here I am asking the question: How much ministerial discretion is in this? The minister can allow a foreigner in, if he wants to?

The CHAIRMAN: Oh, yes. Having finished sections 3 and 5, what is it suggested we do now? Shall we proceed with the bill section by section?

Hon. SENATORS: Agreed.

The CHAIRMAN: Section 1; I do not think there is any criticism here. Perhaps Mr. Macgillivray can explain this to us.

Mr. MACGILLIVRAY: These are changes in the definitions under the act. Each of the changes is related to the International Convention for the Safety of Life at Sea, 1960, which we will come to. Each of these changes in definition is necessary in order to give effect to the provisions of the new convention. There is nothing in it that I can see that should prove the least bit contentious.

Senator REID: Subsection (25) is something new, is it not? It reads:

"Fishing vessel" means a ship that is employed in catching fish, whales, seals, walrus or other living resources of the sea, and that does not carry passengers or cargo.

Mr. MACGILLIGRAY: Yes, Senator, that is the definition of a fishing vessel as contained in the convention. Of course, in the convention there are somewhat different requirements for fishing vessels. They are less onerous than the requirements for cargo and passenger vessels.

The CHAIRMAN: Shall section 1 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 2?

Mr. MACGILLIVRAY: Clause 2, Sir, I believe was pretty well explained by Mr. Baldwin at our first meeting when he said that the object here is to give the Governor in Council the power to make regulations with respect to the licensing of small vessels.

The CHAIRMAN: It is mostly dealing with pleasure craft, is it not?

Mr. MACGILLIVRAY: Most of the vessels affected by this are pleasure craft. There are a few other vessels.

Senator KINLEY: There was considerable objection from the western people about this fine of \$500 or imprisonment not to exceed six months. They thought that that was high. The fine was \$100 before, was it not?

Mr. MACGILLIVRAY: Yes, Sir.

Senator KINLEY: That is a big jump for a fisherman who—

The CHAIRMAN: You will remember, Senator, that it was explained to us that the original penalty of \$100 had been fixed in 1915, and it is now to be \$500 or not more than six months' imprisonment to conform with the penalty clauses that—

Senator SMITH (*Queens-Shelburne*): This has application mainly to pleasure craft the owners of which, for example, refuse to license their boats. They have to do something drastic with them. It has nothing to do with the fishing industry.

The CHAIRMAN: I think the people who objected from the west coast did not realize it did not affect their kind of industry at all.

Senator KINLEY: It was Senator Reid's problem. It was his people who objected to the fine being \$500. Do you recall that, Senator?

Senator REID: Yes.

Senator SMITH (*Queens-Shelburne*): I think the representatives of that point of view were fairly well satisfied. They received the explanation.

The CHAIRMAN: Yes, this deals with the licensing of vessels. Shall section 2 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: We have dealt with section 3. Section 4 is the one on which we have numerous representations from British Columbia. You will recall we had representations from the marine engineers and from the captains, and also from the tugboat owners. I do not know if the tugboat owners agree with me, but it seemed to me that they more or less cancelled one another out. Some of them were opposed to one subsection which did not help them very much, and others were opposed to another subsection which did not help them.

Senator KINLEY: They accepted the exemption up to 15 nominal horsepower.

Senator SMITH (*Queens-Shelburne*): There were two points of view. One was that this would put hundreds of men out of work, but the opinion of the tugboat owners was that it would put 18 men out of work. I rather gather that the department concurred with the latter opinion. Am I stating it correctly?

Mr. MACGILLIVRAY: Yes, Sir.

Senator SMITH (*Queens-Shelburne*): It is just a matter of choosing who to believe. It was said that those who said it would put hundreds out of work were taking the worst possible view. It is a question of making up our minds as to which is the best evidence. I have no personal knowledge of the matter, and I find it difficult to express an opinion.

Senator KINLEY: It was said that these tugs make their repairs on the shore. The minister has discretion in case of difficulty. I would not like to express an opinion because I do not know much about the tugs on the west coast.

Mr. MACGILLIVRAY: I think I should add that here, again, the department's approach was on the basis of safety and not on the basis of labour-management relations. We always try to avoid that. We hope that they can work out their difficulties between one another through bargaining, but certainly we are inclined to agree with the tugboat owners with respect to the number of people who would be put out of work by reason of one subsection; that it would be the small number of 18. The other subsection is the one that favours the marine engineers, and provides more opportunities for employment for them. I do not know whether it is true to say they cancel one another out, or whether one or the other would get the advantage in the long run.

Senator KINLEY: You are giving the big fellows a break here. It is a case of two engineers in one engine room?

Mr. MACGILLIVRAY: Yes.

Senator MOLSON: I think it was brought out that there had been no recorded engine failures in the smaller crafts we were discussing, and also that there was absolutely no unemployment in the tug engineering field in British Columbia. I think the fact that there might be a shortage today was brought out.

The CHAIRMAN: Yes, I think that is right. I was impressed by the evidence of Mr. Cumyn, the Director of Marine Regulations. I think he is in Europe now.

Mr. MACGILLIVRAY: Yes.

The CHAIRMAN: Shall subsection (1) of section 4 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Subsection (2)?

Hon. SENATORS: Carried.

The CHAIRMAN: We have dealt with section 5. We have carried the new section 116A and we have inserted section 116B raising it from 10 to 25 tons.

Senator REID: May I ask why the words "British subjects" are used instead of the words "Canadian citizen"?

Senator KINLEY: "British subjects" means anybody.

Mr. MACGILLIVRAY: It has always been our practice within the Commonwealth to accept mutually the certificates of other parts of the Commonwealth, and, indeed, we are bound to under the Commonwealth Merchant Shipping Agreement. It has always been our practice to issue certificates to British subjects who are not Canadian citizens. This is intended to take care of the landed immigrants who are now in this country and who are employed as skippers of fishing vessels.

Senator REID: Are there many who come under that category?

Mr. MACGILLIVRAY: I do not think there are very many. There are some on the east coast, and I believe none on the Pacific coast because of the requirements of the Fisheries Act.

Senator REID: Then we have two different laws—one for the Atlantic coast and one for the Pacific coast. That should not be.

Senator SMITH (*Queens-Shelburne*): I think that is easy to explain, and I think it was explained the other day. We do not have to have licences on the east coast because the control of the fishing there from a conservation point of view is entirely different from what it is on the west coast. The man who fails to get a fishing licence can take advantage of this provision, it has been suggested, and the only people on the east coast who require licences are the lobster fishermen. That is a conservation measure, as it is on the west coast with regard to halibut and salmon. The representative of the unions out there understood this completely when it was explained the last time.

Senator KINLEY: I know that fishermen going from the east coast to the west coast to fish complain that the unions are pretty tight and that they cannot get in, but you will know more about that than I do.

The CHAIRMAN: Section 6, Mr. Macgillivray?

Mr. MACGILLIVRAY: Well, this is the first of a series of clauses dealing with the International Convention for the Safety of Life at Sea. The only thing we are doing here is providing that the Governor in Council may make regulations to give effect to the new safety convention. The act at present allows him to make regulations to give effect to the 1948 safety convention.

Senator KINLEY: Under the 1948 convention it applies only to a certain tonnage—300 tons, was it?

Mr. MACGILLIVRAY: A cargo ship of 500 tons, and a passenger ship of any tonnage on international voyages.

The CHAIRMAN: My notes are that sections 6 to 27 inclusive all stem from this international safety convention.

Shall section 6 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 7? There is nothing in that.

Mr. MACGILLIVRAY: This indicates some change in the present act. The 1948 safety conventions did not have provisions regarding construction of cargo ships, and had nothing to do with regard to nuclear ships. The only change we are now making is to make provision for the inspection of the construction of cargo ships and the inspection of nuclear ships.

The CHAIRMAN: Shall section 7 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 8.

Mr. MACGILLIVRAY: Again this is just taking care of the changes in terminology in the new convention.

The CHAIRMAN: Shall this section carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 9.

Mr. MACGILLIVRAY: This amendment as the note tells us is consequential on the amendment made by clause 8.

The CHAIRMAN: Shall this section carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 10—safety convention certificates.

Mr. MACGILLIVRAY: This is simply to replace in the act the names of the new certificates, the new names prescribed by the new safety convention.

The CHAIRMAN: Shall this section carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 11.

Senator REID: With regard to section 11 it deals with a ship having on board a lesser number of persons than that stated in the certificate. How does this affect the law?

Mr. MACGILLIVRAY: We may have an occasion where a passenger ship which has a certificate under which it is required to carry lifesaving equipment for a full load of passengers may be making a trip with no passengers or with very few on board, in which case if they happen to have a few lifeboats ashore for repairs they should be able to sail because they are still adequately equipped to handle the trip. This is there so that they may be excused on that one occasion from adhering to the full requirements.

The CHAIRMAN: Shall section 11 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 12 relates to certificates.

Mr. MACGILLIVRAY: This amendment is entirely consequential on the change in the names of the certificates.

The CHAIRMAN: Shall section 12 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 13, this also seems to be a consequential amendment.

Mr. MACGILLIVRAY: Yes, sir, it is consequential on the amendment in clause 6 relating to the making of regulations. It is just a drafting change.

The CHAIRMAN: Shall this section carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 14, a change in names only.

Mr. MACGILLIVRAY: This again is a drafting change simply because of changes in the names of the certificates.

The CHAIRMAN: Shall this section carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 15.

Mr. MACGILLIVRAY: Again the same comment as for the last one. It is just a change in the name of the certificate.

The CHAIRMAN: Shall this section carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 16.

Mr. MACGILLIVRAY: This is to extend the application of section 402 to Canadian safety convention ships. It is also to provide that a ship which is certificated as a passenger ship may be cleared on its passenger ship certificate even though it has no passengers aboard. There is an anomaly in the present act in that a ship that is certificated as a passenger ship, if it should sail with no passengers at all, would have to get a cargo ship certificate which is of a lesser grade.

Senator KINLEY: He already has a higher certificate and that should include the lower one.

The CHAIRMAN: Shall this section carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 17 is a change in wording about nuclear ships and that kind of thing.

Mr. MACGILLIVRAY: It is consequential upon the change in names. It also extends the requirement to nuclear ships and cargo ships of 300 tons or more. Previously the limit was 500 tons but it has now been brought down to 300 tons.

The CHAIRMAN: Shall this section carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 18.

Mr. MACGILLIVRAY: Again this reflects the lowering of the tonnage as regards cargo ships to 300 tons, and also the application to nuclear ships.

The CHAIRMAN: Shall this section carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 19.

Mr. MACGILLIVRAY: This is consequential on the previous amendment set out in clause 17, the one which makes radio requirements applicable to cargo ships of 300 tons.

The CHAIRMAN: Shall this section carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 20.

Mr. MACGILLIVRAY: This amendment—this is the one that requires nuclear ships to be inspected annually as regards their radio.

The CHAIRMAN: Shall this section carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 21?

Mr. MACGILLIVRAY: Again, this reflects the reduction of the tonnage of cargo ships as regards radio to 300 tons.

The CHAIRMAN: Shall this section carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 22.

Mr. MACGILLIVRAY: That is entirely consequential on the changes in the names of the convention certificates.

The CHAIRMAN: Shall this section carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Then, section 23.

Mr. MACGILLIVRAY: The same comment on that.

The CHAIRMAN: Shall this section carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 24.

Mr. MACGILLIVRAY: The same comment on that.

The CHAIRMAN: Shall this section carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 25?

Mr. MACGILLIVRAY: In the present act and in the 1948 Safety Convention there is a requirement for the master of a ship to report certain hazards at sea and certain dangers to navigation. In the new convention there is a requirement that he shall also report gale force winds for which no storm warnings have been received, and also icing conditions, that is conditions of icing on the superstructure. Before, he was not legally bound to do so.

The CHAIRMAN: Shall this section carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 26?

Mr. MACGILLIVRAY: This is a drafting change. The repeal of subsection 2 of section 461 because it is already covered in the amendment to section 389 set out in clause 6.

The CHAIRMAN: Shall this section carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 27?

Mr. MACGILLIVRAY: This again is entirely consequential on the change in the names of certificates.

The CHAIRMAN: Section 28 deals with the oil pollution prevention regulations which is an international matter, I gather, is it not?

Mr. MACGILLIVRAY: Yes, sir. In 1962 in London there was a conference of the governments that were party to the Oil Pollution Convention of 1954, and at that conference they agreed on a number of changes in the convention, and the purpose of subclause 1 of clause 28 is to empower the Governor in Council to make changes in the present Oil Pollution Prevention Regulations which will bring them into line with the convention.

The CHAIRMAN: Shall subsection 1(a) carry?

Hon. SENATORS: Carried.

Senator KINLEY: Mr. Chairman, it is 100 miles now. It was previously 50 miles. That was strenuously objected to in this committee.

Mr. MACGILLIVRAY: The limit off the east coast has been extended to 100 miles.

The CHAIRMAN: Subparagraph 2, that is the increase in penalty to \$500.

Mr. MACGILLIVRAY: We have found in many cases on the west coast the magistrates have been critical of the section dealing with the previous fine. They found it too low.

The CHAIRMAN: It was derisory in the case of large vessels.

Mr. MACGILLIVRAY: It was just about a licence fee to pump oil into the water. The United States has a fine of \$5,000 and I think Britain has a similarly high fine.

The CHAIRMAN: Shall this carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 29.

Mr. MACGILLIVRAY: This has to do with harbour dues. In section 608, 609 and 610 of the act it is provided that most of the harbour dues are set, or rather some of the harbour dues are set by the act itself, but most of them are set by order in council. Section 608 now empowers the Governor in Council

to fix the scale of harbour dues. Section 609 prescribes that they shall be payable twice a year, and section 610 prescribes a fee of one-half cent per square foot for anchorage. Now that figure was set many years ago and is unrealistic. In this case we are now doing two things, we are tidying it up by putting the whole thing under the Governor in Council, and we are bringing the figures up to date.

Senator KINLEY: Is there any significance to the term public harbours?

Mr. MACGILLIVRAY: There are various categories of harbours in Canada. Those that come under the National Harbours Board which are not included in this. There are also those under local harbour commissioners, such as New Westminster. I do not think there are any on the east coast, but there are some in Newfoundland. The third category are public harbours within the meaning of Part X of the Canada Shipping Act, those which are proclaimed to be public harbours for this section and which are operated by harbour masters appointed by the Department of Transport.

Senator SMITH (*Queens-Shelburne*): Do most of these harbours in Nova Scotia come under Part X?

Mr. MACGILLIVRAY: Halifax is under the National Harbours Board and so is Sydney.

Senator SMITH (*Queens-Shelburne*): What about Lunenburg Harbour—my friend, I am sure, will be interested in that.

Mr. MACGILLIVRAY: It would come under this.

Senator SMITH (*Queens-Shelburne*): And Liverpool where they ship news-print.

Senator KINLEY: In Lunenburg Harbour they have public wharves.

Mr. MACGILLIVRAY: Yes.

Senator KINLEY: Up to now they have allowed fishing vessels to go to public wharves free. Will that continue?

Mr. MACGILLIVRAY: This section does not deal with wharves. It deals with harbour dues. Wharves are dealt with under the Government Harbours and Piers Act. There was recently an amendment, a new schedule of rates for the public wharves.

Senator SMITH (*Queens-Shelburne*): Can someone here give us a little information on that?

Mr. MACGILLIVRAY: Yes, I think Mr. Cavey should explain that, sir.

Senator SMITH (*Queens-Shelburne*): What would be the charge, Mr. Cavey, for such an operation in Lunenburg—

Senator KINLEY: Or Liverpool?

Senator SMITH (*Queens-Shelburne*): Or Liverpool—where fishing vessels are coming in at sea? Is there any change in regulation?

Mr. CAVEY: There is no change in regulation. The changes here would not have any effect at all in the administration of those harbours, or any public harbour.

Senator SMITH (*Queens-Shelburne*): What I am trying to get at, and I think what is in our minds, is the question as to the effect of a change in the Order in Council under the act, which you mentioned a while ago, for the operation of public wharves. Do you have any knowledge as to the effect of such change on fishing vessels using public wharves? Does that come under what you have in your jurisdiction?

Mr. CAVEY: There were changes made earlier this year with respect to public wharves, but they did not affect the fishing vessels at all.

Senator KINLEY: Is there an indication that you are going to charge a vessel for anchoring in the port?

Mr. CAVEY: Section 610 of the present act provides that a ship shall pay for anchorage in a harbour if it stays there over 30 days, but having paid that charge, it could stay there for years.

Senator BAIRD: What is the position of Newfoundland in this respect?

Mr. CAVEY: The harbour at St. Johns Newfoundland, is governed by a special statute and they have a special harbour commission there. You will recall that we had a harbour commission bill here recently; and the minister has plans for St. Johns.

The CHAIRMAN: Shall section 29 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 30 deals with the restriction of navigation, and I think has to be read in conjunction with section 2, which we have already passed, which relates essentially to pleasure vessels.

Mr. MACGILLIVRAY: The intention in this is to apply it particularly to pleasure vessels. We have often had requests in the department from provincial governments and from other bodies, and other individuals, to restrict motor boating, restrict regattas, and so on, where the local inhabitants don't want them. Under the present section 645 the Governor in Council does not have the power to prohibit navigation. This is an ancient right of the citizen, the right of navigation. Under this clause the Governor in Council will be able to prohibit navigation. Some people were concerned that this might be giving too broad a power to the Governor in Council, and so you will note it is proposed only to apply it to vessels not exceeding 15 tons. This is to make pretty sure that this will apply only to pleasure vessels. I think Mr. Baldwin explained to this committee that the intention is only to make these restrictions at the request of a provincial government or a municipal government—some responsible local body, possibly, but not just at the request of individuals.

Senator KINLEY: Some of these fellows that get a thrill out of waterskiing, and those who run small boats at 20 or 30 miles an hour, are frequently a danger to others. Who administers that act, the Royal Canadian Mounted Police?

Mr. MACGILLIVRAY: That is now provided for in the Criminal Code and is enforceable and enforced by any police force.

Senator KINLEY: What about the provincial authority, do you have to go to them for action? Do you invoke the Criminal Code?

Mr. MACGILLIVRAY: The Criminal Code is, of course, enforced provincially, enforced by the provincial attorney general. The municipal and provincial police enforce the Criminal Code.

The CHAIRMAN: Shall section 30 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 31 is next. Senators will recall that there were one or two suggestions made by the Canadian Bar Association to make two changes. Perhaps as we go along, Mr. Macgillivray will indicate them and give us his reaction.

Mr. MACGILLIVRAY: There is a suggestion made with regard to section 31. Mr. Hyndman referred to it before the committee last time, and subsequent to that he wrote me a letter proposing a wording for subsection (1) of section 658, in which he stated:

We are particularly concerned with Clauses 31 to 34 of the bill, being the clauses concerned with the amendment of the act in accordance with the International Convention relating to the Limitation of Liability of Owners of Sea-going Ships, 1957. In connection with those provisions we suggest:

- (a) That the proposed new Section 658(1) the amendment relating to priority of claims, be inserted rather as a new section 657(3) to read as follows:

He then sets forth a wording, which is somewhat different from the wording we have drafted in clause 31. His wording is closer to the wording of the international convention, which he prefers. However, it does not change the sense of the amendment. I think they were a little concerned because we used these fractions, "twenty-one thirty-firsts", and "ten thirty-firsts". However, the drafting here is approved by the Deputy Minister of Justice; and because the drafting proposed by Mr. Hyndman does not change the substance but only the form, I would not recommend that we accept the Bar Association's proposal in this regard. If you would like me to read Mr. Hyndman's proposed amendment, I could do so sir.

The CHAIRMAN: Do you think that is necessary? There is no change in substance.

Senator BAIRD: Not if there is no change in substance.

The CHAIRMAN: Does that apply to subsection (1) of section 31?

Mr. MACGILLIVRAY: Yes, sir.

The CHAIRMAN: Shall subsection (1) carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Subsection (2). Did he make any suggestions there?

Mr. MACGILLIVRAY: No, he had no suggestions on that, sir. In this subsection a limitation is involved, and therefore there is an amount of money paid into the court. The court may postpone or defer its distribution of part of the fund until all actions relating to the same incident are resolved.

The CHAIRMAN: Shall subsection (2) carry?

Hon. SENATORS: Carried.

The CHAIRMAN: On section 32, I remember Mr. Hyndman had a criterion of subparagraph (c), and he suggested that the word "agent" might be expanded so as to know exactly what we mean by an agent.

Mr. MACGILLIVRAY: Mr. Hyndman has proposed an amendment which we agree with, and we would be quite glad to have this inserted, sir. As it was drafted, we speak of the manager, operator, or agent of a ship. The draftsmen were rather of the opinion that the agent of a ship had a fairly definite meaning and could not be expanded. However the maritime lawyers, the practitioners in the field, were concerned about it, and so they wanted additional wording added.

The CHAIRMAN: Shall I read the additional wording of the bar council? Instead of (c) reading as it presently does, it would read thus:

the manager or operator of a ship and any agent of a ship made liable by law for damage caused by the ship.

If that is agreed between the Bar Association and the department, would some honourable senator move?

Senator SMITH (*Queens-Shelburne*): I so move.

Senator MOLSON: Seconded.

The CHAIRMAN: Carried. Then subsection (2) of section 32?

Mr. MACGILLIVRAY: The Bar Association had no recommendation concerning this, sir.

The CHAIRMAN: Shall subsection (2) carry.

Hon. SENATORS: Carried.

The CHAIRMAN: Then section 32 as amended will be carried.

Now section 33?

Senator REID: Page 17 of the bill reads:

- (b) the Governor in Council may by order from time to time specify the amounts which shall be deemed to be equivalent to 3,100 gold francs and 1,000 gold francs, respectively.

What exactly does that mean?

Mr. MACGILLIVRAY: When the act was amended in 1961, sir, section 657 expressed the limited liability of a ship in gold francs. This is to achieve uniformity throughout the world, if we are to have reciprocity when actions are commenced. If a ship is arrested in port, the ship wants to put up bail to be released from arrest, and the only way they can find out what is the present Canadian equivalent is to phone the Bank of Canada, and if it happens to be a Saturday afternoon, for instance, they are out of luck. This provides for the Governor in Council to make an order from time to time to say what the amounts are in Canadian dollars.

Senator REID: The wording is, "3,100 gold francs and 1,000 gold francs". Is the one amount plus the other?

Mr. MACGILLIVRAY: We could have drafted it to say what was the amount of one gold franc, which would have covered it, but it would be expressed in a figure of seven decimal points.

Senator REID: As I read it, it reads like a double payment.

Mr. MACGILLIVRAY: I think the drafting is all right.

The CHAIRMAN: I think, Senator Reid, section 657 of the present act refers to two different amounts of liability in different cases, and this merely carries on that manner of expressing it.

Senator KINLEY: That is according to tonnage.

Mr. MACGILLIVRAY: Per ton.

The CHAIRMAN: Shall section 33 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 34?

Mr. MACGILLIVRAY: Again, the Bar Association made no comment on this, and, indeed, said they are in favour of it.

The CHAIRMAN: Shall section 34 carry?

Hon. SENATORS: Carried.

Mr. MACGILLIVRAY: May I make a comment before you go to clause 35. The Bar Association had another item of complaint, and that is that the International Convention that we are giving effect to here is to limit the liability of the ship owner, but we have not gone as far as the convention. The convention has a provision which enables a ship owner to limit his liability as to the removal of wreck. This bill does not go so far as to allow him to limit for wreck removal. This was an optional feature of the convention. Canada can still accede to it without acceding to the provision relating to wreck, and the Government has just not at present accepted the idea that people should be able to limit in connection with the removal of wreck.

I might say that at the time this was being considered, and policy established on it, the *Federal Express* had just sunk in Montreal Harbour, and the cost of removing it was to be in excess of \$1 million. There was not any desire to put that sort of burden on the Canadian taxpayer.

The CHAIRMAN: This is a matter of Government policy?

Mr. MACGILLIVRAY: That is correct.

The CHAIRMAN: I do not think we need to interfere with that.

Mr. MACGILLIVRAY: I might say that in the United Kingdom, where they have brought the provisions of the convention into effect, they have in their act a provision that can be proclaimed giving effect to the wreck removal feature, but it has not as yet been proclaimed. It has been in their act since 1959.

The CHAIRMAN: I do not think we need take action on that. It would involve inserting a new section in the bill.

Hon. SENATORS: No.

The CHAIRMAN: Section 35 is one of the most important sections of the bill, and it is the restriction to Canadian shipping as to domestic traffic between the head of the lakes and Anticosti Island. We had a good many favourable comments on that from the witnesses who appeared before us, and no unfavourable comments, which rather surprised me because I thought there were some interests in Canada who were opposed to it.

Senator MOLSON: I think one witness suggested it did not go far enough, but if he could not have the whole cake he would take a half.

The CHAIRMAN: Yes.

Senator REID: What is the reason behind it?

Mr. MACGILLIVRAY: I think Mr. Baldwin can explain that.

Mr. J. R. Baldwin, Deputy Minister, Department of Transport: Senator Reid, the Canada Shipping Act contains a provision which states that vessels built outside Canada may only come on to Canadian registry if the Minister of Transport gives his approval. The policy under this provision for many years has been to allow foreign built vessels to come on to Canadian registry if they are reasonably new, but if they are extremely ancient not to allow them to come on to Canadian registry in order to avoid problems this might create.

The Commonwealth Merchant Shipping Agreement provides that vessels of Commonwealth registry, in addition to those of Canadian registry, may engage in our coasting trade.

With the opening of the St. Lawrence Seaway we were confronted with a rather new and difficult situation in the Great Lakes area. A large number of old United States lakers, ranging from 40 to 70 years in age, came on to the market, and there was a strong tendency developed for these to be placed—they were not eligible for Canadian registry because of their age, but there was a tendency for them to be placed on Commonwealth registry in Britain, Bermuda or Nassau, as the case may be, as a means of getting them into the Canadian domestic coasting trade. In fact, these perform a useful service in the Atlantic provinces where some of the industries are very highly dependent upon them, but the problem in the Great Lakes was a new one. It created hardships for the Great Lakes operators who had been building up fleets of reasonably new vessels.

Attempts were made to find out whether the British Government and the Commonwealth countries concerned could help us in avoiding many of these old vessels getting on to Commonwealth registry, but under their legislation this proved impossible.

At about the time when this matter was under consideration—around 1959 and 1960—we had achieved the point at which some of the Canadian lake operators—one in particular—indicated to us that unless this trend could be brought to an end somehow they would have no choice but to take the Canadian registered vessels which they had off Canadian registry, and start

putting them on British registry. In fact, the first move was to transfer one of the Canadian lakers to Bermuda registry.

In view of this situation the then government reached the conclusion that this particular aspect of the coasting trade, which is the Great Lakes and the St. Lawrence, and which had always been traditionally carried on by Canadian registered vessels—the problem was a new one created by the opening of the seaway—should be reserved for Canadian registered vessels. The matter was taken up with the British Government which, in turn, consulted the other partners in the Commonwealth Merchant Shipping Agreement. They agreed that they would be satisfied with an amendment to the agreement which would limit the trade in this particular area to vessels of Canadian registry only, and this legislation is in implementation of that consultation.

The CHAIRMAN: That is a very clear explanation.

Senator KINLEY: Mr. Chairman, I quite agree that before the seaway there was protection on the rivers and lakes because of natural conditions, but now that the seaway is open these ships should have some protection. Perhaps I left the wrong impression in the house when I said that we in the Maritimes were open, and were rather in favour of free trade, anyway. I would like to see this idea of protecting the Great Lakes, and making the Maritimes open to trade put into effect. I think I left the wrong impression, in that I thought all foreign vessels were stopped at the coast. However, I discover that under this amendment British vessels will still be able to carry goods and passengers from the Maritimes to ports within the restricted area, but will not be able to pick up cargo in that area and ship it to another area. I thought all vessels were stopped at the coast, but that appears not to be the case. I am not going to oppose this, but there is a feature of it that will come up in the future, I am sure.

The CHAIRMAN: Is there any further discussion on clause 35?

Senator MOLSON: Mr. Chairman, could I ask where 63 degrees west hits the island of Anticosti?

Mr. MACGILLIVRAY: It is about halfway down the island. It is far enough to take in Havre St. Pierre.

Senator KINLEY: What part of the Gaspé coast does it go through?

Mr. MACGILLIVRAY: Cap des Rosiers to the West Point of Anticosti, and then you go downstream a little bit and take in Havre St. Pierre.

Senator KINLEY: It does not take in any part of Labrador?

Mr. MACGILLIVRAY: No. The drafting of this was mentioned by Mr. Lowrey who in his testimony said that their counsel, Mr. Hazen Hansard of Montreal, had proposed an alternative draft. I took this up with the draftsmen of the Department of Justice, and we produced an alternative draft. Mr. Hansard saw this, and still did not like it, but it was at this stage purely a drafting point that he disliked. We prepared a draft of which I have copies here which I can distribute.

The CHAIRMAN: Your department is satisfied with this amendment?

Mr. MACGILLIVRAY: Yes. These changes clarify it, and it is agreeable to the department. I discussed it also with Mr. Hopkins, and, indeed, I telephoned Mr. Hansard from Mr. Hopkins' office to discuss this most recent draft. We are satisfied that, as drafted in the amendment I have placed before you, it now covers the situation adequately.

Senator KINLEY: I recognize, Mr. Chairman, that Newfoundland, being an island on the way to Canada, has a problem here. A British ship can still go from St. John's to the Maritimes, but if it comes from St. John's to Nova Scotia can it then go up the lakes?

Mr. BALDWIN: Yes, there is no restriction on a British vessel carrying traffic between Halifax and, say, Toronto.

Senator KINLEY: Of course, a Canadian ship can do that, but it is restricted now to a British ship. The British ship is a little better off now than it used to be, is it not?

Mr. BALDWIN: It may be.

Senator KINLEY: What effect does this have on Canadians who register their ships in Great Britain for the purposes of economy?

Mr. BALDWIN: In so far as the Atlantic provinces trade is concerned, it will not affect them. Within the Great Lakes area we will have to deal with the problem of a few ships that are now on British registry and which are being used in this trade by Canadian operators.

Senator KINLEY: You are still allowing Canadian ships to be registered outside the country?

Mr. BALDWIN: There is no provision against that.

Senator KINLEY: They can register them in England and still have the privilege of working in our coastal trade.

Mr. BALDWIN: Not in the Great Lakes.

Senator KINLEY: Not in the St. Lawrence?

Mr. BALDWIN: That is right.

Senator KINLEY: But they can operate from Newfoundland to Nova Scotia?

Mr. BALDWIN: Yes.

The CHAIRMAN: Have all senators a copy of the proposed amendment to section 35? The only change in language seems to be where you say:

Notwithstanding subsections (1) and (2), (a) no goods shall be transported by water or by land and water,—

That is an extension of the previous draft. What is the significance of the words: "no goods shall be transported by water or by land and water."

Mr. MACGILLIVRAY: There is a history to this. Back in 1932 or 1933 the act was amended and put into its present form. At that time, I understand, there was a problem in respect to foreign vessels taking grain from the Lakehead to an American port, transporting it within the harbour to another American ship, and then carrying it to another Canadian port so that it could be said that the cargo was going by way of a foreign port. This wording was introduced at that time in order to make sure that that practice was not—

Senator REID: It was taken just a few feet by land?

Mr. MACGILLIVRAY: It was a subterfuge to get around our laws.

Senator KINLEY: Was there not something in the Treaty of Washington about that?

Mr. MACGILLIVRAY: No, I do not think so.

Senator KINLEY: It dealt with water and land transportation between two countries.

Mr. MACGILLIVRAY: Yes, but not with what was essentially a transportation between one part of the country and another part of the country by water.

The CHAIRMAN: From a legal point of view I do not know whether the subterfuge would hold water. I do not know whether Senator Lang would agree with me on this, but if you transport something from one point of the country to Buffalo, and then it is transported across ten feet of dock, and then the transportation is continued on by water, I would say that that transport was by water. However, it does not matter.

Mr. MACGILLIVRAY: I think the language of the existing section is somewhat confusing, and it has been difficult for me to trace the history of it. I could do it only by reading the debates.

Senator REID: Has it ever been challenged?

Mr. MACGILLIVRAY: No.

Senator MOLSON: This seems like a good amendment.

The CHAIRMAN: Is the proposed amendment to subsection (2a) of section 671 satisfactory, honourable senators? Shall the amendment carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 36 which repeals schedule IV.

Mr. MACGILLIVRAY: Schedule IV is the existing safety convention of 1948 which is appended to the act.

The CHAIRMAN: We just replace it?

Mr. MACGILLIVRAY: We propose not to replace it. We propose not to have the new convention added to the act. There are two reasons for that. First, it would add about 190 pages to the act and, secondly, it is not legally necessary to have it added.

The CHAIRMAN: Shall section 36 carry?

Hon. SENATORS: Carried.

Senator KINLEY: Have we passed section 34 which deals with the arresting of a ship?

The CHAIRMAN: Section 34 was carried, Senator Kinley. That was in connection with the limitation of liability of a shipowner in connection with the international convention.

Senator KINLEY: But where a ship was brought under arrest in connection with a claim, is that confined to Section 657?

Mr. MACGILLIVRAY: Yes, this deals with a case where a ship is arrested, and bail has been posted partly in Canada, and partly in another country, the Court may order the release of the ship if the total of the bail is equal to the amount of limitation. If part of the bail has been posted in a non convention country, the Court may order the release of the ship. If the other part of the bail has been posted in a country that is party to the convention the Court shall order the release of the ship.

Senator KINLEY: This does not apply to the payment of an account that a vessel might owe for refitting?

Mr. MACGILLIVRAY: No.

Senator KINLEY: Only to damage that might be done.

The CHAIRMAN: Does that satisfy you, senator?

Senator KINLEY: Yes.

The CHAIRMAN: Then there is Section 37 which deals with the coming into force of this Act.

Mr. BALDWIN: This would allow the Government time, under the two sections, to make the necessary arrangements so that when the bill comes into effect no hardship may be created for any one individual.

The CHAIRMAN: Shall this section carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Shall the preamble carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Shall I report the bill with amendments?

Hon. SENATORS: Carried.

The CHAIRMAN: I don't think I can do that this afternoon. I think it will have to be next week because it will take some time to prepare the report. I want to thank the members of the Committee for their work. They have been here now on this bill for four sessions. I think I should also express a word of thanks and appreciation to the officers of the Department.

Senator KINLEY: They have been very good.

Senator REID: Do we have a quorum to do this?

The CHAIRMAN: We have a quorum. I don't think you have seen Senator Smith sitting over there at that table.

Senator MOLSON: There is a ringer over there.

Whereupon the Committee adjourned.



Second Session—Twenty-sixth Parliament

1964

THE SENATE OF CANADA
PROCEEDINGS
OF THE
STANDING COMMITTEE ON
TRANSPORT AND COMMUNICATIONS

To whom was referred the

Bill S-21, intituled: An Act to authorize the Construction and Maintenance of a Bridge across the St. Lawrence River between the City of Ste-Foy, in the County of Quebec, and the Municipality of St-Nicolas, in the County of Levis, both in the Province of Quebec.

The Honourable A. K. HUGESSEN, *Chairman.*

THURSDAY, MAY 14, 1964

WITNESSES:

Mr. Jacques Fortier, Counsel, Department of Transport; Mr. W. J. Manning, Director, Marine Works, Department of Transport; Mr. Andre Michaud, Headquarters Engineer, Harbours and Rivers Branch, Department of Public Works.

REPORT OF THE COMMITTEE

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1964

THE STANDING COMMITTEE
on
TRANSPORT AND COMMUNICATIONS

The Honourable
ADRIAN K. HUGESSEN,

Chairman

The Honourable Senators

Baird,	Macdonald (<i>Brantford</i>),
Beaubien (<i>Provencher</i>),	McCutcheon,
Bouffard,	McGrand,
Bradley,	McKeen,
Buchanan,	McLean,
Connolly (<i>Halifax North</i>),	Methot,
Croll,	Molson,
Dessureault,	Monette,
Dupuis,	Paterson,
Farris,	Pearson,
Fournier (<i>Madawaska-Resigouche</i>),	Phillips,
Gelinas,	Power,
Gershaw,	Quart,
Gouin,	Reid,
Haig,	Robertson (<i>Shelburne</i>),
Hayden,	Roebuck,
Hollett,	Smith (<i>Kamloops</i>),
Horner,	Smith (<i>Queens-Shelburne</i>),
Hugessen,	Stambaugh,
Isnor,	Taylor (<i>Westmorland</i>),
Jodoin,	Thorvaldson,
Kinley,	Veniot,
Lambert,	Vien,
Lang,	Welch,
Lefrançois,	Woodrow—(50).

Ex officio members

Brooks,
Connolly (*Ottawa West*).
(Quorum 9)

ORDER OF REFERENCE

Extract from the Minutes of the Proceedings of the Senate, Thursday, May 12th, 1964.

"Pursuant to the Order of the Day, the Honourable Senator Dessureault moved, seconded by the Honourable Senator Pouliot, that the Bill S-21, intituled: "An Act to authorize the Construction and Maintenance of a Bridge across the St. Lawrence River between the City of Ste-Foy, in the County of Quebec, and the Municipality of St-Nicolas, in the County of Levis, both in the Province of Quebec" be read the second time.

After debate, and—

The question being put on the motion, it was—
Resolved in the affirmative.

The Bill was read the second time.

The Honourable Senator Dessureault moved, seconded by the Honourable Senator Pouliot, that the Bill be referred to the Standing Committee on Transport and Communications.

The question being put on the motion, it was—
Resolved in the affirmative."

J. F. MacNEILL,
Clerk of the Senate.

MINUTES OF PROCEEDINGS

THURSDAY, May 14th, 1964.

Pursuant to adjournment and notice the Standing Committee on Transport and Communications met this day at 10.30 a.m.

Present: The Honourable Senators: Hugessen, (*Chairman*), Bouffard, Buchanan, Connolly (*Halifax North*), Connolly (*Ottawa West*), Dessureault, Dupuis, Gelinas, Fournier (*Madawaska-Restigouche*), Hollett, Isnor, Kinley, Lambert, Lefrancois, Molson, Pearson, Power, Smith (*Queens-Shelburne*), Stambaugh, Taylor (*Westmorland*), Welch and Woodrow. (22)

In attendance: Mr. E. Russell Hopkins, Law Clerk and Parliamentary Counsel.

On Motion of the Honourable Senator Dessureault it was RESOLVED to report recommending that authority be granted for the printing of 800 copies in English and 300 copies in French of the proceedings of the Committee on Bill S-21.

Bill S-21, intituled: "An Act to authorize the Construction and Maintenance of a Bridge across the St. Lawrence River between the City of Ste-Foy, in the County of Quebec, and the Municipality of St-Nicolas, in the County of Levis, both in the Province of Quebec", was read and considered.

The following witnesses were heard:

Mr. Jacques Fortier, Counsel, Department of Transport. Mr. W. J. Manning, Director, Marine Works, Department of Transport. Mr. Andre Michaud, Headquarters Engineer, Harbours and Rivers Branch, Department of Public Works.

On Motion of the Honourable Senator Molson it was Resolved to report the Bill without any amendment.

On Motion of the Honourable Senator Lambert it was RESOLVED to request the Department of Public Works to supply a series of roll-down maps to be installed in Senate Committee Room 256-S in the area behind the Chairman's table.

At 11.00 a.m. the Committee adjourned to the call of the Chairman.

Attest.

F. A. Jackson,
Clerk of the Committee.

REPORT OF THE COMMITTEE

The Standing Committee on Transport and Communications to whom was referred the Bill S-21, intituled: "An Act to authorize the Construction and Maintenance of a Bridge across the St. Lawrence River between the City of Ste-Foy, in the County of Quebec, and the Municipality of St-Nicolas, in the County of Levis, both in the Province of Quebec", have in obedience to the order of reference of May 12th, 1964, examined the said Bill and now report the same without any amendment.

All which is respectfully submitted.

A. K. Hugessen,
Chairman.

THE SENATE

THE STANDING COMMITTEE ON TRANSPORT AND COMMUNICATIONS

EVIDENCE

OTTAWA, Thursday, May 14, 1964.

The Standing Committee on Transport and Communications to which was referred Bill S-21, to authorize the Construction and Maintenance of a Bridge across the St. Lawrence River between the City of Ste-Foy, in the County of Quebec, and the Municipality of St-Nicolas, in the County of Lévis, both in the Province of Quebec, met this day at 10.30 a.m.

Senator A. K. HUGESSEN (*Chairman*), in the Chair.

The committee agreed that a verbatim report be made of the committee's proceedings on the bill.

The committee agreed to report, recommending that authority be granted for the printing of 800 copies in English and 300 copies in French of the committee's proceedings on the bill.

The CHAIRMAN: Honourable senators, this Bill S-21 is an Act to authorize the Construction and Maintenance of a Bridge across the St. Lawrence River between the County of Quebec and the County of Lévis.

As honourable senators will recall, this is really only an enabling bill, to authorize the Province of Quebec to proceed with the construction of this bridge provided that the federal requirements as to navigation and shipping are complied with.

We have available as witnesses before the committee Mr. Jacques Fortier, Counsel, Department of Transport; Mr. W. J. Manning, Director, Marine Works, Department of Transport; Mr. W. R. Binks, Chief, Engineering and Construction Division, Department of Public Works; and Mr. A. Michaud, Headquarters Engineers, Harbours and Rivers Branch, Department of Public Works.

The bill was introduced by Senator Dessureault. Have you anything to say, Senator?

Senator DESSUREAULT: I have really very little to add. I understand that the plans have been approved by the Department of Transport and the Department of Public Works. I wonder if you could give us an idea of the plans or structure of that bridge. It may be useful to have that information.

Mr. Jacques Fortier (Counsel, Department of Transport): Mr. Chairman and honourable senators, this bill is to authorize the construction of a bridge near Quebec City at some short distance upstream from the present Quebec bridge. It provides that the construction of the bridge shall not commence before the Governor in Council has approved of the location and design of the bridge. This will afford an opportunity to the officers of the Department of Public Works and of the Department of Transport to review the design and location and make their recommendations to the Governor in Council.

This bill is generally in the same terms as previous bridge legislation over the St. Lawrence River. More particularly, there was a bill approved in 1963 for the construction of a bridge near Montreal, a bridge and a tunnel from

one side of the river to the other. This bill is generally if not practically in the same terms, and therefore we in the Department of Transport have no objection to make to the bill.

Senator ISNOR: You say "on the same terms". I have two questions. How long would it take to construct this bridge and what is the estimated cost; and is the federal Government directly or indirectly paying anything towards the construction?

Mr. FORTIER: I have no information as to the cost of the bridge nor have I any information as to the time it will take to construct it. On that point, I would like to say that in previous legislation of this kind there has been usually a provision included whereby the construction shall commence within so many years and shall be completed within so many years, otherwise the powers given under the bill would lapse.

This bill has no similar provision. Neither was there any similar provision in the bill which authorized the government of the Province of Quebec to construct the bridge near Montreal. That legislation was passed in 1963, as I have just said.

The reason there was no similar provision in the legislation was that, the bridge being constructed by a provincial government, it was not felt that we should impose just as strict restrictions as if the bridge were being constructed by a private organization.

Senator ISNOR: I want that point cleared up. Then I am safe in assuming that the federal Government is not directly or indirectly subsidizing this bridge in any way?

Mr. FORTIER: I am sorry, Senator, I cannot give you any definite answer on that but perhaps my colleagues here would be able to answer that question.

Mr. A. Michaud, Headquarters Engineer, Harbours and Rivers Branch, Department of Public Works: There has been no question raised as to federal participation in this project. The Department of Public Works is concerned only in regard to possible interference with navigation by this project.

Senator FOURNIER (*Madawaska-Restigouche*): Mr. Chairman, would anyone tell us how this particular location was arrived at? Is it to reduce the cost or was it considered more appropriate to build the bridge at this point?

Mr. MICHAUD: This again is a matter for the owner, which is the Province of Quebec, to determine. We do not take part in such discussions as to location of the bridge. We receive the plans as they submit them to us.

Senator FOURNIER (*Madawaska-Restigouche*): Thank you.

Senator LAMBERT: I understand that this bill is purely from the point of view of giving an authorization or permit over the navigable waters, and that is the reason you are here.

Mr. MICHAUD: That is correct.

The CHAIRMAN: Honourable senators, if you look at the bill you will see that it is to authorize the Province of Quebec to construct the bridge at that particular point. It makes no reference to a contribution.

Senator ISNOR: I want to make sure, because there are other bridges currently being constructed and there is a question in my mind on some of them, because of the connection with the Trans-Canada Highway at that point, as to whether the federal Government is taking any part financially in it.

The CHAIRMAN: If the federal Government were to contribute to this bridge it would have to be done under separate legislation or estimates. There is nothing in this bill to cover that.

Senator DESSUREAULT: It is at a point connecting the north shore and the south shore on the Trans-Canada Highway. The highway is connected at the bridge farther down.

The CHAIRMAN: Senator Molson.

Senator MOLSON: I presume that the general location is known within a short distance. Is there any question of this bridge causing any complications in the movement of ice?

Mr. W. J. Manning, Director, Marine Works, Department of Transport: The clearance of the proposed bridge there is the same as that of the present Quebec Bridge so it will not cause any more interference than the present bridge is doing. It is a nuisance to navigation, but it is there.

Senator DESSUREAULT: The clearance and height are the same?

Mr. MANNING: Yes, you will have better horizontal clearance on the new bridge than on the old.

Senator DESSUREAULT: Can you give us the measurements between the spans?

Mr. MANNING: Between the piers it will be 1,800 feet.

Senator PEARSON: Is there any opposition to this bridge?

The CHAIRMAN: I am advised that nobody has appeared in opposition to it.

Senator PEARSON: What are the regulations to safeguard navigation during the construction of the bridge?

Mr. FORTIER: Mr. Chairman, each individual case of bridge construction is dealt with on its own merits. When the plans and designs are submitted to the Department of Public Works and the Department of Transport they are reviewed by the officers, as are the submissions. The order in council which will be passed would embody certain conditions which would constitute the regulations applicable to that particular construction.

Senator HOLLETT: I gather that the exact location of the bridge has not been determined yet.

Mr. MICHAUD: I think the onus and responsibilities rest with the builder. In any event, if he is in doubt as to whether it might cause interference with navigation he is at liberty to come back to the Department of Public Works and ask for approval of certain temporary work. If they want to build a causeway during construction of the bridge for their own protection they could come back to the department for separate authority.

Senator ISNOR: When you say "owner," do you refer to the contractor or the province?

Mr. MICHAUD: I guess they are both responsible. I don't know what is the legal term for it. The builder is the first one responsible, I would imagine, but in the second place the owner or the province would be.

The CHAIRMAN: Well, the bill is clear about that. What it does is to authorize the Province of Quebec to construct and to do all ancillary works.

Senator LEONARD: May I ask how far removed from the present old Quebec Bridge this will be, and in which direction?

Mr. MICHAUD: It is only a few hundred feet from the Quebec Bridge, 650 feet upstream. And as Mr. Manning pointed out it is a pretty similar profile to the present bridge inasmuch as the clearances are concerned.

Senator DESSUREAULT: You have no idea of what the estimated cost would be?

Mr. MICHAUD: We are not concerned with that, and we have not provided for it.

Senator DESSUREAULT: Was it mentioned when the plans were submitted?

Mr. MICHAUD: No, and we are not concerned with it.

Senator WELCH: I understand it will be about 600 feet from the present Quebec Bridge?

The CHAIRMAN: Upstream.

Senator WELCH: What is the reason—is there too much traffic carried by the present bridge?

Senator DESSUREAULT: In many cases cars have to wait about half an hour to cross the present bridge.

The CHAIRMAN: The present bridge is only a two-lane highway, and the traffic is getting too much for a bridge of that size.

Senator MOLSON: The present bridge also carries a railroad.

Senator DESSUREAULT: Does anybody know if it will be a toll bridge?

Senator VAILLANCOURT: No toll. We have some people who prefer a tunnel instead of a bridge, and some people said it is impossible to build a tunnel there. What is your idea on that?

Mr. MICHAUD: I don't think anything is impossible for an engineer if you want to put up the money.

Senator VAILLANCOURT: But you have no study on that?

Mr. MICHAUD: No, we did receive correspondence on this and we were going to look into it, particularly from the point of view of protection to navigation. On the other aspects of it all we have are ideas, but we were not requested to look into it.

Senator VAILLANCOURT: You have not been requested for an opinion?

Mr. MICHAUD: Not to give an opinion regarding the cost and feasibility, but we would be interested if it were a project that just could not be executed, because it might indirectly have a bearing on the navigation, and if it were obstructing navigation it would not work out. There has been no question in our mind as to whether or not it is feasible because we think anything is feasible if you want to put the money into it.

Senator DESSUREAULT: This bridge does not exclude the other project for a tunnel or another bridge?

Senator VAILLANCOURT: It does not exclude.

Senator HOLLETT: How wide will the bridge be according to the plan?

Mr. MICHAUD: There are three lanes on each side which would be 36 feet.

Senator DESSUREAULT: Ninety feet altogether.

Mr. MICHAUD: There would be 36 feet, and then there is a centre concrete curb of four feet, and on either side a sidewalk, and there is 36 feet on either side of the centre curb.

Senator HOLLETT: There would be six lanes?

Mr. MICHAUD: Yes.

Senator ISNOR: I would like to ask one other question. What is the annual traffic at the present time on the present bridge?

Mr. FORTIER: Mr. Chairman, I don't believe that we have any information on that point. The present Quebec Bridge, while it is owned by the Government of Canada, is entrusted to the Canadian National for operation as part of the Government's railway system, as a railway bridge. It was the Government of the Province of Quebec which made the arrangement to construct the highway facilities on the bridge, and the maintenance of the highway facilities is a matter which comes exclusively within the purview of the Province of Quebec.

Senator ISNOR: I thought you would have a report showing the annual amount of traffic.

Mr. FORTIER: The Canadian National might have reports, but we do not have them in the department.

Senator DUPUIS: I think the senator is referring to the number of cars using the bridge.

Mr. FORTIER: We would have no information on that, sir. It could be obtained from the Canadian National.

Senator VAILLANCOURT: Perhaps I can answer, but I cannot give you exact figures. On a Sunday afternoon to go from my home to Quebec you are obliged to take two hours. The automobiles are in a long file.

Senator BLOIS: Do you mean it takes two hours to cross the bridge?

Senator VAILLANCOURT: Yes, on Sunday afternoons and Sunday evenings the traffic is very heavy. It takes two hours to travel 13 or 14 miles. Of course, we have the ferry.

Senator BOUFFARD: It takes two hours to cross the bridge?

Senator POWER: It is not the bridge that causes the trouble. The bottleneck is at the approaches. What is the total length of the bridge?

Mr. MICHAUD: The total length is 3,600 feet, and the horizontal clearance between the centre piers is 1,800 feet.

Senator MOLSON: There is a wider clearance at the top of the construction. There is a wider full height clearance on this bridge than on the existing Quebec bridge?

Mr. MICHAUD: The vertical height would be the same. Actually, the clearance is about 150 feet above high water on the old bridge, and this one also has a vertical clearance of 150 feet.

Senator MOLSON: But that vertical clearance extends for the full length between the piers?

Mr. MICHAUD: There is a longer span between the two shore piers on the new bridge.

Senator POWER: Is the river much wider at that point?

Mr. MICHAUD: The river is practically the same width because these bridges are only 1,650 feet apart.

The CHAIRMAN: Are there any further questions of any of these witnesses?

Senator WELCH: Mr. Chairman, I am very anxious to know the amount of traffic that crosses the present bridge, and whether it is anticipated it will increase. Is there another way of going around at the present time? What is all this traffic that is taking two hours to cross this bridge doing? Is there any other way for it to go?

Senator FOURNIER (*Madawaska-Restigouche*): It would have to cross at Montreal.

The CHAIRMAN: I think perhaps one of the senators from Quebec could answer you, Senator.

Senator POWER: It is the congestion of traffic from the City of Quebec.

Senator WELCH: A six-lane bridge would enable roughly the same amount of traffic to pass, and I wonder if you really need a six-lane bridge across the river at this point. I am ignorant about this. I have crossed that bridge only five or six times during the last two years. However, at the times I have crossed it I did not see it carrying a great burden, certainly no more than that carried by the Halifax-Dartmouth bridge which today, of course, is obsolete too. A six-lane bridge with two sidewalks is a lot of bridge.

The CHAIRMAN: We have to take the position that this is a matter for the Province of Quebec to determine. This is a provincial matter. If the province

decides it wants this additional bridge then that is its concern and not ours. All we are concerned with is the projection of navigation in the event that the bridge is built.

Senator WELCH: They are asking us to share in the total cost, I presume.

An hon. SENATOR: No, no.

The CHAIRMAN: Is the committee ready to consider the bill clause by clause?

Hon. SENATORS: Yes.

The CHAIRMAN: Shall clause 1 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Clause 2, authority to construct the bridge. Shall clause 2 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Clause 3(1), plans and drawings to be submitted. Shall clause 3(1) carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Clause 3(2), approval of plans and drawings prior to commencement. Shall clause 3(2) carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Clause 4, regulations. Shall clause 4 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Shall the preamble carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Shall the title carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Shall I report the bill without amendment?

Hon. SENATORS: Agreed.

Senator LAMBERT: Before this committee adjourns may I make a suggestion, which I think is appropriate having regard to the experience of the committee today and also of the Standing Committee on Banking and Commerce yesterday? In my opinion the niche behind the chairman is an ideal place in which to install a roll of maps which would give members of the committee a visual appreciation of what is being discussed in many of the bills that come before us.

If this needs a motion then I am quite prepared to so move, and in doing so I am seconded by my friend, Senator Molson. My motion is that we ask the Department of Public Works, or whichever department is best equipped to do this, to prepare a roll of maps consisting of a full map of the Dominion of Canada supported by maps of the provinces. This would enable us to deal intelligently with such details as we have had before us during the last few days.

Senator ISNOR: I would like to support Senator Lambert in his motion. I recall that the other day I mentioned to Senator Connolly that I had considerable difficulty in locating Nova Scotia on the present map.

Senator BLOIS: I would support the motion as well, but I would not want the map that is already there permanently out of sight, because I like to look at it. I do not think it should be covered except when necessary.

Senator LAMBERT: I do not intend that the mural decoration should be covered, but above it, as anyone can see, there is plenty of room. A roll of maps could be installed there without obliterating the present map. The maps I am referring to can be pulled down and then rolled up just like window blinds, and they exist in a number of offices.

Senator DUPUIS: That is a very good suggestion.

The CHAIRMAN: Honourable senators, you have heard Senator Lambert's motion.

Senator MOLSON: I second it.

Hon. SENATORS: Agreed.

The CHAIRMAN: I think the Department of Public Works and the Department of Transport know what we want for future occasions in respect to bills of this kind. I trust they will take due notice of this motion.

The committee adjourned.



Second Session—Twenty-sixth Parliament

1964

THE SENATE OF CANADA
PROCEEDINGS
OF THE
STANDING COMMITTEE ON
TRANSPORT AND COMMUNICATIONS

To whom was referred the

Bill S-33, An Act to incorporate the Ottawa Terminal Railway Company.

The Honourable A. K. HUGESSEN, *Chairman*.

LIBRARY THURSDAY, JUNE 18, 1964.

JUL 2 1964 No. 1

WITNESSES:

Lt. Gen. S. F. Clark, Chairman, National Capital Commission; Mr. D. L. Macdonald, National Capital Commission; Mr. E. P. Burns, Liaison Officer, Canadian National Railways; Mr. J. W. G. Macdougall, Q.C., General Solicitor, Canadian National Railways; Mr. G. W. Miller, Assistant General Manager, Eastern Region, Canadian Pacific Railway; Mr. Julian Gazdik, Counsel, Canadian Trucking Associations Inc.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1964

THE STANDING COMMITTEE
on
TRANSPORT AND COMMUNICATIONS

The Honourable
ADRIAN K. HUGESSEN,
Chairman

The Honourable Senators

Baird,	Macdonald (<i>Brantford</i>),
Beaubien (<i>Provencher</i>),	McCutcheon,
Bouffard,	McGrand,
Bradley,	McKeen,
Buchanan,	McLean,
Connolly (<i>Halifax North</i>),	Methot,
Croll,	Molson,
Dessureault,	Monette,
Dupuis,	Paterson,
Farris,	Pearson,
Gelinas,	Phillips,
Fournier (<i>Madawaska-Restigouche</i>),	Power,
Gershaw,	Quart,
Gouin,	Reid,
Haig,	Robertson (<i>Shelburne</i>)
Hayden,	Roebuck,
Hollett,	Smith (<i>Kamloops</i>),
Horner,	Smith (<i>Queens-Shelburne</i>),
Hugessen,	Stambaugh,
Isnor,	Taylor (<i>Westmorland</i>),
Jodoin,	Thorvaldson,
Kinley,	Veniot,
Lambert,	Vien,
Lang,	Welch,
Lefrançois,	Woodrow—(50).

Ex officio members
Brooks,
Connolly (*Ottawa West*).

(Quorum 9)

ORDER OF REFERENCE

Extract from the Minutes of the Proceedings of the Senate, Thursday, June 11th, 1964.

"Pursuant to the Order of the Day the Senate resumed the debate on the motion of the Honourable Senator Lambert, seconded by the Honourable Senator Hugessen, for second reading of the Bill S-33 intituled: "An Act to incorporate the Ottawa Terminal Railway Company".

After debate, and—

The question being put on the motion, it was—

Resolved in the affirmative.

The Bill was then read the second time.

The Honourable Senator Lambert moved, seconded by the Honourable Senator Roebuck, that the Bill be referred to the Standing Committee on Transport and Communications.

The question being put on the motion, it was—

Resolved in the affirmative."

JOHN F. MacNEILL,
Clerk of the Senate.

MINUTES OF PROCEEDINGS

THURSDAY, June 18th, 1964.

Pursuant to adjournment an notice the Standing Committee on Transport and Communications met this day at 9.30 a.m.

Present: The Honourable Senators: Hugessen (*Chairman*), Baird, Bouffard, Buchanan, Connolly (*Ottawa West*), Dessureault, Fournier (*Madawaska-Restigouche*), Hollett, Isnor, Lambert, Methot, Molson, Pearson, Reid, Stambaugh, Thorvaldson, Veniot and Welch. (18)

In attendance: Mr. E. Russell Hopkins, Law Clerk and Parliamentary Counsel.

On Motion of the Honourable Senator Connolly (*Ottawa West*) it was RESOLVED to report recommending that authority be granted for the printing of 800 copies in English and 300 copies in French of the proceedings of the Committee on Bill S-33.

Bill S-33, intituled: "An Act to incorporate the Ottawa Terminal Railway Company", was read and considered.

The following witnesses were heard:

Lt. Gen. S. F. Clark, Chairman, National Capital Commission.

Mr. D. L. Macdonald, National Capital Commission.

Mr. E. P. Burns, Liaison Officer, Canadian National Railways.

Mr. J. W. G. Macdougall, Q.C., General Solicitor, Canadian National Railways.

Mr. G. W. Miller, Assistant General Manager, Eastern Region, Canadian Pacific Railway.

Mr. Julian Gazdik, Counsel, Canadian Trucking Associations Inc.

At 12.40 p.m. the Committee adjourned to the call of the Chairman.

Attest.

F. A. Jackson,
Clerk of the Committee.

THE SENATE

THE STANDING COMMITTEE ON TRANSPORT AND COMMUNICATIONS

EVIDENCE

OTTAWA, Thursday, June 18, 1964.

The Standing Committee on Transport and Communications to which was referred Bill S-33, to incorporate the Ottawa Terminal Railway Company, met this day at 10 a.m.

Senator A. K. Hugessen (*Chairman*), in the Chair.

The committee agreed that a verbatim report be made of the committee's proceedings on the bill.

The committee agreed to report, recommending authority be granted for the printing of 800 copies in English and 300 copies in French of the committee's proceedings on the bill.

The CHAIRMAN: Honourable senators, I ask the committee to come to order. The Senate has referred to us for consideration Bill S-33, an Act to incorporate the Ottawa Terminal Railway Company. This is a public bill.

We have a number of witnesses who are ready to give evidence before us in connection with this matter. They are from the Canadian National Railway, Canadian Pacific Railway, National Capital Commission, Department of Transport and I understand that the Canadian Trucking Associations Inc. wishes to make some representations.

The representatives are as follows. From the Canadian National Railway Mr. Graham MacDougall, Mr. Pat Burns and Mr. Henault; from the Canadian Pacific Railway Mr. C. A. Coulpitts, Chief Engineer, Mr. George Miller, Mr. Gordon Miller, Mr. Donat Levesque and Mr. George Pogue; from the National Capital Commission Lieutenant-General S. F. Clark, Chairman, Mr. C. R. Cornish, Chief Engineer, Mr. J. L. McQuarrie, Railway Consultant, Mr. D. L. McDonald, Director of Planning and Property, and Mr. Marcel Couture, Comptroller; and from the Department of Transport Mr. Jacques Fortier, Counsel.

From the Canadian Trucking Associations Inc. there is Mr. Julian Cazdik, counsel.

The two railway companies and the N.C.C. are the people promoting this bill. I suppose we should leave it to them to determine who is to make presentations to us and who wishes to appear first.

General S. F. Clark, Chairman, National Capital Commission: Mr. Chairman and honourable senators, I can present the general outline and background leading to the bill, but cannot deal with the terms of Bill S-33.

The CHAIRMAN: I think the committee would like to have a general outline of the scheme, before dealing with the bill in detail. I think every member has a copy of the map to follow. There is also a large plan at the side.

General CLARK: At this moment may I ask permission to add two members to our delegation. They are Mr. D. L. McDonald, Director of Planning and Property; and Mr. Marcel Couture, Comptroller.

The information on the map is given by identifying city streets rather than mileages on the railway.

Mr. Chairman, the recommendations leading to the Government's approval of the railway relocation plan which has given rise to this bill, were outlined by Senator Lambert on the motion for second reading of the Ottawa Terminal Railway bill on June 10. I think there is little I can add to the references made to the Todd Report of 1903, the Holt Report of 1915, the Cauchon Report of 1922, and the Plan for the National Capital.

General CLARK: If I may, I should like to refer to one sentence in the Plan for the National Capital which was made by Mr. Greber. He said "The removal of railway facilities has therefore become the framework of the Master Plan".

May I mention some of the improvements which would result from the removal of the railway lines from the centre of the city. The first is that there would be a reduction in the number of level crossings. The plan now calls for the elimination of 70 level crossings. Eventually, as the pressure of motor vehicles traffic increases, it will undoubtedly be necessary to separate the grades between some of the present level crossings. We believe that the removal of these level crossings will greatly facilitate the movement of the ever-increasing amount of vehicular traffic in this area.

Senator CONNOLLY (*Ottawa West*): And increase the safety, too?

General CLARK: Yes sir, increase the safety very greatly.

Senator CONNOLLY (*Ottawa West*): I say that, General Clark, because we have had in the outskirts of Ottawa, in the west end, in the last few years, a number of fatal accidents arising from these level crossings.

General CLARK: Even though they are protected by light indicators, absent minded people sometimes seem to get into trouble at these crossings.

Senator ISNOR: How many level crossings are there just in the west end section of Ottawa?

General CLARK: There were 111 in the area. We are reducing this to the order of 41, of which most are in the outskirts where the traffic is not very dense. If you wish, I can have them counted for any particular area and give you the figure.

Senator ISNOR: I have a figure in mind. There are crossings at Billings, Pleasant Park Road, Springland, Brookfield, Wakefield Road and Riverside Drive.

General CLARK: There are about nine.

Senator ISNOR: Am I correct in saying they will all be removed within a certain period of time?

General CLARK: No, I believe, sir, you are referring to a subdivision of the railway, which I will mention later, which is not being removed. Grade crossings are ordered by the Board of Transport Commissioners when the traffic builds up to a certain level both on the roads and on the railways.

Senator ISNOR: Mr. Chairman, may I ask if the Board of Transport Commissioners is represented here today?

The CHAIRMAN: It is not.

Senator ISNOR: I think it is important they should be here. As I understand it, they have the authority more or less to direct control in so far as these crossings are concerned, the blowing of whistles and the safeguarding of traffic at these particular points. I think they should be represented here. Will you take a note of it, please, and think it over?

The CHAIRMAN: The Board of Transport Commissioners is an independent organization.

Senator ISNOR: Yes but they have the authority, as I understand it.

The CHAIRMAN: I will take a note of that and if, at the end of the evidence given to us this morning, we feel we should take evidence from the Board of Transport Commissioners, perhaps we could arrange that.

Senator ISNOR: Thank you.

General CLARK: The second point contemplated was the simplification of the railway operations. It was believed that the concentration of the railway operations, such as the station, industrial areas, freight sheds, express terminals and workshops, and their joint use by a Terminal Railway Company would simplify railway operations and lead to economies and more efficient operation. It would certainly lead to a reduction in the number of miles of track running through the centre of the city. The plan, when completed, will remove 35 miles of railway track, generally from the centre of the city of Ottawa.

Senator REID: My question has to do with railway passengers. The present terminus is fairly central. What effect would the new one have on passengers out there?

General CLARK: Would you like me to deal with it now? I was going to deal with it in a later part of the brief.

Senator REID: Then leave it.

The CHAIRMAN: Deal with it when you come to that part of your submission.

General CLARK: Yes, if I may. It was also planned that on the rights-of-way of abandoned lines traffic arteries in the form of highways, parkways and roads could be established, and the removal of the industrial areas would permit a pleasant redevelopment of some of these areas.

Also the plan contemplated the removal of railway lines which would enhance land values and invite redevelopment of the areas which were deteriorating because of the numerous grade crossings, poor access, deadend streets and obsolescent industrial buildings. It called for the provision of industrial land so that industries could relocate in areas where they could build modern plants and where there would be room for them to expand.

The Joint Parliamentary Committee on the Federal District Commission in 1956 modified some of the railway relocation proposals made in the Plan for the National Capital prepared by Jacques Greber in 1950. If I may, I would like to outline and have Mr. McQuarrie follow on this map, the various features that were agreed to by the Joint Parliamentary Committee in 1956.

It called for the removal of the railway lines on the Canadian National Railways Renfrew subdivision which ran from west to east across the centre of Ottawa. If I may, I will explain later, but this has now already become seven miles of the Queensway. Perhaps first I might explain what is being removed and later how they are being used.

The plan called for the abandonment of the C.P.R. Sussex Street subdivision—the railway line which runs from Sussex Drive, very close to the National Research Council, behind the City Hall, through Eastview, around past Hurdman Bridge to Bank Street. That is the section we are dealing with.

The abandonment of the C.P.R. Carleton Place subdivision from approximately Bell's Corners to the Ottawa West station at Bayview Road, very close to Nepean Bay.

The abandonment of the C.N.R. Beachburg subdivision from Wass to Hurdman's;

The abandonment of the railway lines from Hurdman's Bridge across the Rideau River, along the east bank of the canal, past the Union Station, over the Alexandra or Interprovincial Bridge, to approximately Brewery Creek in Hull.

This plan has been followed with two exceptions. With regard to the location of the new railway station, which was to have been built at the Walkley Road, near the present site of the new freight yards, it was decided by the Government in 1959 that the station should not be located at this point, but should be moved to the east side of the Rideau River, some four miles closer to the present Union Station. The site selected by the Government at that time, as shown on the small maps, is beside the Queensway interchange at Hurdman, four miles by road closer to the present Union Station than the one recommended in the plan by Jacques Greber.

Senator BOUFFARD: Where is the Union Station on that map?

General CLARK: It is there, and the proposed site selected by the Government in 1959 is there (*indicating on map*).

The mileage from the proposed site of the new Union Station to the present Union Station is two miles. While I was going to deal with it later, I think it might be an appropriate time to deal with it now. The plan is that when these railway lines are removed on the east side of the canal, it is proposed to build a driveway or parkway along the abandoned railway line connected to an interchange at the Queensway which will give very rapid access. One should be able to get from the Chateau, the present site of the Union Station, to the new one in four to five minutes, driving at 30 miles an hour. My guess is our speed limit will be 35 miles per hour, as it is normally in our parkways, so it will take about four minutes.

Senator BOUFFARD: Four minutes?

General CLARK: Four to five minutes' drive.

Senator REID: How will the passengers go to and from the new Union Station?

General CLARK: The normal type of transportation will be taxicabs and buses, just as they use them now when they are going any distance. When people come into the Union Station they either use buses or taxis.

Senator CONNOLLY (*Ottawa West*): General Clark, I understood you to say it would take 45 minutes.

General CLARK: No, four to five minutes.

Senator CONNOLLY (*Ottawa West*): Oh, four or five minutes?

General CLARK: Yes. A theoretical four minutes at 30 miles an hour, so I said four or five minutes.

Senator CONNOLLY (*Ottawa West*): I thought you were going back to mule trains.

General CLARK: No. We have often thought of having horses on the driveways, but we have not investigated that possibility. The other exception to the plan is the abandonment of the Beachburg subdivision from Wass to Hurdman.

If I might now mention the progress that has been made on this railway relocation plan. The Renfrew subdivision of the C.N.R. from the western limits of Ottawa to the east side of the Rideau Canal has been abandoned, and some seven miles of the Queensway, which is part of the trans-Canada highway, has been built on part of this abandoned right-of-way from Bronson Avenue westward. This is a joint project of the federal Government, the government of Ontario and the City of Ottawa. The construction is continuing on the Queensway from Bronson Avenue to the Pretoria Bridge, and ultimately it will move right across and connect with the Queensway at the interchange near the Mounted Police barracks at Hurdman Bridge. It is our hope and expectation this will be completed in late 1966, with various parts of this highway coming into use at an earlier date. For example, we would hope the highway

from Bronson to Bank might be in use late this autumn or early next spring. The last stage of the Queensway will require the removal of the railway tracks leading to the present Union Station, the Hurdman spur of the railway which runs up to Mann Avenue and the spur running to Sussex Drive. This has to be done because the highway will be at grade across the present railway lines. Again, we would hope that this line would be abandoned in the summer or the early autumn of 1966, and our hope also is that the Queensway would be completed later that year.

I should mention, Mr. Chairman, that the removal of these tracks and the building on the Queensway does not form part of the tri-party memorandum of understanding.

Senator ISNOR: It does not?

General CLARK: It does not, sir. But it is part of the whole plan. It is held to be an element that had been completed earlier; and I thought it would be incomplete not to mention this since it was an important part of the over all plan.

The Board of Transport Commissioners approved the abandonment of the Sussex Street subdivision, from Sussex Street near the National Research Council, the end of the line, across the Rideau River to Beechwood Avenue, on June 15—three days ago; and I am not sure whether it will be abandoned, and tidied up today.

The reason for the urgency in getting this part abandoned, from Sussex Drive to Beechwood, is that the commission must provide the land for the traffic interchanges to the Macdonald Cartier Bridge, which is a rather complicated matter. The work will start on that later this month, and indeed some of it has gone ahead where it would not obstruct railway operations. That part of Sussex Street subdivision from Beechwood, through Eastview, past Hurdman Bridge to Bank Street, the Board of Transport Commissioners have authorized its abandonment on one month's notice from October 1, 1965, and it is our expectation that we shall give notice for its abandonment sometime in the summer of 1966—or eight months or so later.

When the Sussex Street subdivision is abandoned, the right of way is available for an important interconnecting traffic artery from the Macdonald Cartier Bridge to the Queensway interchange at the site of the new Union Station. This traffic artery is shown on the Ottawa official plan of roads which was approved by the municipalities affected, and by the Ontario Municipal Board. The railway lines running from Hurdman Bridge, passing the Union Station, along the Rideau Canal, will be removed late in 1966; at least, that is the hope. At that time it is our hope that the new Union Station will be built and in operation.

As I mentioned before, the distance from the new site to the old one is two miles.

Senator REID: Will you maintain the responsibility for the old station?

General CLARK: Under the term of the tri-party memorandum of understanding, that whole area will become the property of the National Capital Commission, and I will have some remarks to make later on the redevelopment plans which were approved in principle by the Government last October.

Senator MOLSON: May I ask what the time lag will be between the establishment of the new terminal and the creation of this highway over the existing track along the canal where the Union Station now is?

General CLARK: Mr. Chairman, this is not an easy one to answer. From an engineering point of view it should not be difficult, because we have a compacted grade that has been there for many years, which defines almost precisely the right of way we would use for our road or highway; and so it is my hope

we would get the money and be able to carry out our negotiations with the other parties who might be involved in this, and do it quickly.

I could give you an engineering estimate, sir, but it is not easy to say whether we can get the money and reach agreements with the City of Ottawa and the other agencies with whom we have to deal. I think it would be six months, but I may be off the track.

Senator BOUFFARD: If this work is not terminated, what will be the possibility of passengers coming to the centre of the city—how long would it take and how many miles would it be?

General CLARK: The mileage will not be essentially different, because you would go along the Queensway, down Nicholas; but these roads at the moment are becoming rather crowded with vehicles, and if one happens to be on them at the peak hours in the morning, and the peak hours of traffic from about quarter to five to 5.30 in the evening, they are definitely congested. That is why we believe it makes compelling sense to have an additional driveway along the east bank of the Rideau Canal as another artery; and of course it would have the advantage that you will not have cross-traffic, and one can move fairly quickly on that account. My guess is that if I were in traffic and within the speed limits now, I could do it in about ten minutes.

Senator FOURNIER (*Madawaska-Restigouche*): This looks to me like a package deal. I see there will be the elimination of 37 miles of railways, yet the distance between the old station and the new station will be two miles. Has any consideration been given to retaining the existing station?

General CLARK: Question is: Has any consideration been given as to whether or not the plan could be carried out, retaining the Union Station? Yes, Mr. Chairman, this was considered by Mr. Greber in the preparation of his master plan, and also by the Cauchon Report. I think it has been generally the view of these planners, and the view of the commission and its planners, that if we are going to get the railway lines out of the centre of the city we would have to take away the tracks to the Union Station, and move this station some two miles from its present site which brings it closer to some people and further from others. If you look at the road map, which in a sense gives a measure of the centre of gravity of population, you will find that while this location was very convenient indeed, for the Chateau or the Lord Elgin, it was far away from the areas that are building up in the western and eastern parts of Ottawa. The new site for the Station has another advantage, that it is a very few yards from the Queensway, which is a limited access 60 miles an hour highway. This means that the people living in either eastern or western parts of Ottawa should be able to get there much more quickly than they can along Rideau, Wellington, or the streets now which are certainly quite congested.

It was with this in mind that the Government ordered us to change our plan from having the new station at Walkley Road, to this site at Hurdman, which we think is very much better.

Senator REID: And is this approved?

General CLARK: Yes, sir. When the new station is built the old station and the property there is transferred to the commission. This forms part of the tri-party memorandum of understanding. If I may, later I will give you a brief summary of the redevelopment plans which the Government approved in principle in October last year.

Senator MOLSON: May I ask if any surveys were made as to the destination and points of origin of those people arriving by train?

General CLARK: May I ask one of my staff that question? Mr. McDonald, perhaps you would answer that question.

Mr. D. L. McDonald (Director of Planning and Property, National Capital Commission): At the time, Mr. Chairman, when this was considered, in 1958-59, consideration was given to the origin and destination of the passengers using the railway facilities. I am afraid I haven't the particulars with me.

Senator REID: What about the abandoned tracks?

General CLARK: The abandoned tracks (*indicating on map*) will be at the highway I am not saying who is going to do it, whether it is the city or the province. This will have to be negotiated.

Senator REID: Who will do it?

General CLARK: The N.C.C. receive title to the buildings as an agency of the Crown.

Senator BOUFFARD: To whom does it belong at the present time?

General CLARK: To the C.N.R. and C.P.R. This (*indicated*) by the C.P.R. the other by the C.N.R. and will be used for a parkway. We believe this will be a beautiful entrance on the east side of the Canal looking towards the Parliament buildings. I think we are more disposed not to have too many lines of traffic, racing too quickly, so that there will be a pleasant landscape with trees and shrubs, rather than a rushing busy highway.

Senator BOUFFARD: How do you manage at present with the two railways, to transfer the property to the Ottawa Commission?

General CLARK: Yes, these are mentioned in specific terms and there is a memorandum on it.

Senator PEARSON: Which railway will obtain the more, is it the C.P.R. or C.N.R.?

General CLARK: This is a figure I do not have in my head. I will have it worked out. We have been thinking here more of the lines removed, rather than which Railway owned them. Perhaps the railway companies would answer the question. We can get the answer in a moment.

The CHAIRMAN: You were talking about the convenience to residents of Ottawa of the location of the new Union Station?

General CLARK: Yes sir.

The CHAIRMAN: Frankly I think what is far more important is the convenience for people coming to Ottawa to the new Union Station. After all, Ottawa is the capital and great numbers of people come here by train either for the purpose of business, dealing with the Government, or simply as tourists.

Large numbers of school children come here. The advantage of the old station was that it is very close to the Parliament Buildings. What consideration have you given to how you are going to deal with, say parties of school children or tourists whose primary object is to come and see the Parliament Buildings, when you have the new Union Station two miles away? Are you going to provide buses or something of that kind?

General CLARK: No.

The CHAIRMAN: I am far more interested in the convenience of people coming to visit Ottawa as our national capital than I am in the convenience of residents of Ottawa as to how they get to the new central station.

General CLARK: I know that a large number of people come by bus. On Parliament Hill you can notice that there are groups who come by school buses quite a long distance. It would be my presumption that those who would come a long distance as a group would have their group leader organize a bus. It is found that many of these people go to visit different places in the city by bus. It would be my supposition that they would charter buses for this purpose.

Senator ISNOR: May I pursue this a little further from the tourist point of view. I wonder if Mr. McDonald could give us further information in regard

to the survey which was made in 1959 concerning the hotel business in the present station. You say you did not have the figures but you did make a survey. Can you trust your memory to give some rough figures?

Mr. McDONALD: Mr. Chairman, I regret that it would not be fair to honourable senators for me to give any data from my head, as the survey was done so long ago. I would have to get it and present it at a later date.

Senator ISNOR: Thank you very much. I think we should have it.

Mr. MACDOUGALL: Since the survey basically was conducted by the C.N.R. and others, Mr. Burns, our liaison officer with the N.C.C., is here and while he may not have detailed figures I think he might be able to give sufficient information to indicate the nature of the survey.

Mr. E. P. Burns, Liaison Officer, C.N.R.: There was a general survey by the commission. Mr. McDonald has referred to it. Canadian National also conducted a survey at that time. We wanted to know where our incoming passengers were going in the city, what they were going to do and when they would leave the city. I would not like to quote percentages without the figures in front of me. A large number, very close to three-quarters of the incoming passengers to the city, are businessmen going principally to Government agencies. At the time of the study, a major portion were destined to the immediate area of Parliament Hill. I would like to say that the largest number of passengers were destined to deal with the Department of Public Works. With the relocation of Government departments and with the Department of Public Works being moved to Riverside Drive, the new station will be much closer than it is in its present location. The largest number of those passengers were morning arrivals and late afternoon departures.

Regarding the tourist and the tours you were speaking of, Canadian National have gone into the question considerably and in all instances city transportation is arranged in advance. In other words a group, regardless of the number arriving here, find transportation awaiting them as there is normally a city tour arranged for them. The location of the new station would be no inconvenience in that way.

Senator REID: Who sponsored the tour?

Mr. BURNS: Canadian National.

The CHAIRMAN: This is a survey by Canadian National of the tour.

Mr. BURNS: In so far as the C.N.R. hotel is concerned, at the time of the survey there was approximately 30 per cent of hotel registration which were rail arrivals. In that respect, adequate arrangements will be made for the transportation of passengers arriving at the new station, to the hotel. Arrangements will be made whereby that access will be easy.

Senator LAMBERT: You mentioned "adequate". Would you elaborate on that word "adequate"?

Mr. BURNS: At the present time we are considering several schemes. There is a group in Ottawa interested in hotel transportation. I am not at liberty to reveal the name at the present time. There would be a transfer service between the station and the hotel that would coincide with train arrivals and departures.

Senator LAMBERT: Like the airporters?

Mr. BURNS: Very similar to the airporters.

Senator LAMBERT: That access to the station would be a lower level than it is now. In other words, you would be transporting from the Hurdman area into the Chateau along the highway just described east of the canal, right under the present Sussex Street?

Mr. BURNS: That is the Sussex to Rideau.

Senator LAMBERT: Right into the hotel at a lower level. That is what I understood.

The CHAIRMAN: To summarize what you say, Mr. Burns—and I think you have been very helpful: the railway company does not feel that as a result of the new location of the Union Station their traffic is likely to suffer by comparison, for instance, with bus or airplane traffic?

Mr. BURNS: Quite on the contrary, Mr. Chairman, we are, in some respects, expecting an increase in traffic due to the fact the outlying districts will be timewise much closer to the station than at present.

Senator LAMBERT: Has the witness any data at all in relation to the number of passengers? The chairman mentioned children and other people interested in making tours of the Parliament Buildings. Have you any data in relation to transportation by bus and car here as compared to the railways coming into the city now? Just from a general appreciation of the groups that come to this building during the summer and at times when Parliament is in session, it leaves very little doubt in my mind that the bulk of people come here, and especially younger people, by bus and stay here all day and get out by motor road.

Mr. BURNS: There has been a large volume of tour business in the past two years, and we have endeavoured to develop the tour business by railway. In so far as the Canadian National is concerned, we have been very successful. There has been a very large increase in our share of that traffic. As it pertains to the overall traffic, I would not have any figure.

Senator LAMBERT: I wonder if the National Tourist Bureau would have any data with respect to the number of people coming in here by motor and bus as compared to the railways.

Senator ISNOR: I think they have.

Senator LAMBERT: I think they have too. I could not give anything accurate in the way of figures, but I have the general impression that is so.

Mr. BURNS: The figure that might be of some help is hotel arrivals. They are approximately 30 per cent by rail.

Senator ISNOR: I am rather surprised at you saying you expect it to increase hotel business. Seventy-five per cent arrive by rail, and of that 75 per cent, 40 per cent are one-day visitors dealing with the Government, I would judge; and that leaves you 35 per cent visitors who stay overnight at hotels. How do you satisfy yourself it is going to increase your hotel business? May I go on and state further that, say, in Montreal you have the Queen Elizabeth hotel and the railway adjacent to one another, and people simply walk up from the trains to the hotel.

Mr. BURNS: I believe I was misunderstood. When I was referring to an increase in the business I was referring to railway business and not the hotel business.

Senator ISNOR: You are leaving the hotel out of the picture for the time being?

Mr. BURNS: At the present time I must leave the hotel out of the picture because it will also be affected to some extent by the relocation of the highways and what route the new highways will take.

Senator ISNOR: I am not looking after the C.N.R. hotel business, but in my opinion there would be a decrease instead of an increase, in my experience.

Mr. BURNS: In the roughly 31 per cent of our bookings at the hotel that are rail arrivals we feel we will suffer very little loss.

Senator ISNOR: You have a special agent these days arranging conventions and trying to get them to come to the hotel.

Mr. BURNS: I believe that is not peculiar to the Chateau Laurier. I believe every hotel in Canada is campaigning in that direction.

Senator ISNOR: I am speaking of the C.N.R. having a man devoted to that particular work.

Mr. BURNS: The convention business is certainly a large business, and we are endeavouring to build it up. It is a highly competitive field, and we feel we must specialize in it if we are to compete.

The CHAIRMAN: While we are on this subject, and before I ask General Clark to continue, I wonder if it would not be of interest to hear from the C.P.R. on this particular point. We have heard from the C.N.R., and they feel their business will not be prejudicially affected by the relocation of the station. Could someone from the C.P.R. tell us whether they agree with that point of view?

Mr. G. W. Miller, Assistant General Manager, Eastern Region, C.P.R.: Mr. Chairman, my name is Miller, and I am Assistant General Manager of the C.P.R. in Toronto, and this is part of my territory. The Canadian Pacific gave very careful consideration to the location of the proposed new station, and it was our considered opinion that it would not affect our traffic movement through or in or out of the city of Ottawa. The decentralization of Government buildings in Ottawa, in our opinion, has placed the new station more at the centre of gravity of the city than at its present location, and the proposed new location will be a more efficient location from a railway operating point of view also, and the connecting highways which lead to this intersection of the Queensway and the highways at that point, very close to this new station, will result in very efficient highway movement from the Hull side and all the areas surrounding Ottawa.

The CHAIRMAN: Thank you very much, Mr. Miller.

Senator ISNOR: Because of this fact no doubt it would help the C.P.R. hotels in other cities?

Mr. MILLER: I would not care to comment on that. I would doubt it would have a material bearing on the C.P.R. hotel business elsewhere. Canadian Pacific has no hotel in Ottawa.

Senator ISNOR: That is what I had in mind. If this interferes with conventions being held in Ottawa, it might benefit you elsewhere.

Mr. MILLER: The convention business is quite competitive and I do know the situation at the Royal York hotel in Toronto, where they have to be booked sometimes years ahead. It depends on the season of the year and the size of the convention often determines where the group should meet. Many groups do like to meet in Ottawa because it gives them the opportunity to see the capital of Canada.

The CHAIRMAN: Shall I ask General Clark to continue with his presentation?

Hon. SENATORS: Agreed.

General CLARK: Thank you, Mr. Chairman. I listed the subdivisions first and then said what we were doing about them. The last subdivision I want to mention is the C.P.R. Carleton Place subdivision from approximately Bell's Corners to the Ottawa West Station at Bayview Road; also the Broad Street yards in the area we generally refer to as the Lebreton Flats. We hope that line will be listed sometime in 1966. That part of the line from Ottawa West Station, along Scott Street to Roosevelt, will be available for the widening of Scott Street, which is contemplated in the City of Ottawa official plan of

roads. And then the part of the right-of-way from Roosevelt to, roughly, Britannia will be made into parkland along the new Ottawa River parkway which is now under construction.

Senator REID: Would you mind showing us where the Hull C.P.R. trains will go?

General CLARK: Would you show the route of the C.P.R. railway coming into Ottawa from Hull, Mr. McQuarrie?

Mr. J. L. McQuarrie, Railway Consultant: On this line, and at Bell's Corners it will turn on to the C.N.R. Beachburg subdivision line and will come in through this route, into the new station at Hurdman (indicating on map).

The CHAIRMAN: Senator Reid was asking you how the Hull trains of C.P.R. will come in.

Mr. McQUARRIE: The transcontinental and Toronto trains will not go through Hull (Indicating on map).

Senator REID: Hull will be denied transportation by C.P.R.?

General CLARK: The train connections across to Hull, and the railway schedules and plans—not a matter I know of in detail—we are retaining. You will recall there were two changes made to the Greber plan by the Joint Committee. One is the retention of the Prescott subdivision, that runs past Carleton University, Dow's Lake, across the Prince of Wales Bridge to Hull. That is an interconnecting line. I do not know the plans for passenger traffic on it.

The removal of the Broad Street yards from the area known as Lebreton Flats allows the Government to assemble an area of land in the order of 138 acres, very close to Parliament Hill.

The CHAIRMAN: Where is the Ottawa West yards?

General CLARK: It is that area of land just south of the Chaudiere Falls. This large area of land, generally known as the Lebreton Flats, is being assembled by the Commission for the Government on which to build departmental buildings. A few weeks or a month, or so, ago, the Government announced that it intends to build new departmental buildings for the Department of National Defence in the Lebreton Flats.

The CHAIRMAN: It is just west of the Chaudiere Bridge?

General CLARK: Right in here, yes. It is our hope that these tracks will be removed sometime in the summer or late in 1966.

Senator ISNOR: What tracks are those?

General CLARK: The railway tracks which run from approximately Bell's Corners along the banks of the Ottawa River to Ottawa West Station at Bayview and the railway lines in the Broad Street yards in Lebreton Flats. They come parallel to the viaduct on Wellington Street into the Broad Street yards, which is principally a large industrial area, just south of the Eddy plant at the Chaudiere Falls.

If I might mention one other matter. A question was asked about what the plans were for the use of the area where the Union Station is now sited. The Commission had made plans over a number of years as to how this area might be redeveloped. Some two or three years ago we engaged the architectural firm of John B. Parkin and Associates to prepare new plans, known as the Parkin plan. The Government announced its approval in principle of the plan for the redevelopment of the area bounded by Elgin Street, Wellington Street, Rideau, Little Sussex, Besserer, Nicholas and Laurier; also bearing in mind the developments on the west side of the canal, that is, the start of the new National

Museum and the Centre for the Performing Arts on the west side. The Parkin plan deals with the specific area occupied by the Union Station, the power plant, and various (freight and other) buildings and trackage. The part of the plan that the Government approved only in principle was that at the south end of the area—a triangle of land. It is very hard to show, because the scale is difficult. It is the land bounded by the canal, Laurier Avenue Bridge, Nicholas Street and the Mackenzie King Bridge. The plan is to put in departmental buildings for the Government in that area, up to and astride of the Mackenzie King Bridge. There could be built there, depending on the demand for buildings—and this is a matter for the Department of Public Works to decide—some 1 to 1½ million square feet of office space. The outline of the plan, or the concept of the plan, on the north side of Mackenzie Bridge up to Wellington or Rideau, is for the provision of a hotel—an auditorium with a convention hall, display facilities and convention rooms, and for office buildings for the private sector of the community.

Senator REID: Would that be financed by private capital?

General CLARK: We doubt, sir, if we could have a convention hall financed by private capital. We are not sure of the extent to which the Government will have to participate in the financing of a convention hall which could be used for political conventions when they occur, and principally for larger conventions that do not come to this city now but go to Toronto and Montreal, where they can handle large conventions more easily.

Senator ISNOR: I am not quite sure if I heard you correctly. Did you say the convention hall would be established apart from the present hotel?

General CLARK: Perhaps I did not explain myself well. Our hope in the commission is that north of Mackenzie King Bridge there would be office buildings for the private sector of the community, which would be built by private capital on a long term lease. They would not be built by the Government. Private capital would be invited. We envisage that there is a need for a hotel. Again, this is a matter for private capital. The Government would control by long term lease, so that it would not have to take the land again in 50 or 100 years from now if the area started to deteriorate. The Commission also believes that there is a need for an auditorium and convention rooms.

This would not, in our view, and in our planning opinion, be part of a hotel. A hotel would be principally for guests. If you had a convention auditorium, then, indeed, people would come to live in the Chateau Laurier and a new hotel, if it were there, and undoubtedly would go to other hotels close by.

Senator ISNOR: It would be a hotel?

General CLARK: The hotel only comes into being if there is an effective demand for it. If private capital feels there is such a demand for one and is prepared to invest their own money in it, leasing the land from the Government. So that one cannot set a point in time and say there will be a hotel there. We would make a provision of land for it, and if it makes economic sense to have one, we would invite private entrepreneurs. We would control building materials, the density with which the ground is used, and the height of buildings. In other words, the object of leasing instead of selling is to keep architectural controls, because this area is so close to the Parliamentary perimeter.

Senator REID: Do you intend to get any funds from that project?

General CLARK: The hotel and private offices, and so on, will be built by private capital. We will lease the land, and we will get an income from the lease. We would hope to lease our land at rents based on the market value of this land, and we would be receiving income from it.

The CHAIRMAN: Senator Lambert?

Senator LAMBERT: May I ask the witness if the picture he has just been outlining in connection with development on the other side of the Mackenzie Bridge, and so on, is not pretty clearly set forth in the model on the Sparks Street Mall, which can be seen any day at any time, and from which people can get a visual idea of what this whole thing means in the way of new building arrangements, if the plan is put into effect. The auditorium to which the witness has referred, is, in the model, located on the other side of the Mackenzie King Bridge.

General CLARK: Very close to the present site of the station; that is right, sir.

Senator LAMBERT: I understand this model has been circulated from one end of the country to the other. During the summer months it is displayed on the Sparks Street Mall for the benefit of tourists. I think it is probable that one can get a more adequate idea of this plan through that model than by trying to follow a map here.

General CLARK: May I make two points I have not yet spoken about, Mr. Chairman? The Prescott subdivision, that is, the railway line running across the Rideau River past Carleton University, Dows Lake, under the Queensway, and into the City of Hull, will be the remaining interprovincial railway line in this area. Because of the growth of traffic, it was recognized by the joint Parliamentary committee that this line will have to be grade separated—the railway separated for safety's sake and to facilitate the movement of traffic. Work started last autumn. The grade is being depressed, and we already have the tunnel under the canal at Dows Lake. It will go under Carling Avenue, and under the Queensway. It will not impede the traffic. It was decided that the grade should be depressed rather than elevated for aesthetic reasons, and the work commenced on this last year. We hope this project will be completed in 1966.

I think the last point I should mention is that in relocating these railways we disturbed a number of industries that were served by rail, and which had private siding trackage, in areas such as Sussex Street yards, and generally along the rail lines in the LeBreton Flats. The Government authorized the commission to acquire, which it did some time ago, industrial lands in the Coventry Road area, the Tremblay Road area, the Belfast Road area. The commission is developing these lands with roads, and putting in sewers and water utilities. These sites are being sold to the industries that move from these other areas.

Senator PEARSON: Are they taking advantage of that now?

General CLARK: Yes, they are. We sold quite a number of sites in this area, and I think generally it has been our experience that people who have been on railway sidings, wish to remain on them. I think another feature is that most of the older buildings were multi-storey, and in moving acquire more land than they have at present in order to expand and to build more efficient buildings.

Senator BOUFFARD: Who determines the extent to which the sidings will be removed?

General CLARK: The tri-party memorandum provides this. If a particular company had a private siding track for a capacity of say three freight cars, and we removed them, then the commission at its expense will provide a private siding track for three cars. Now, generally they want to expand. If they wish to go from a three to a ten or twelve car siding, they would negotiate a private siding agreement with the railways for the additional capacity.

Senator BOUFFARD: Would you put the siding in the same position as the industry wants it?

General CLARK: We will provide at our expense a private siding with the same capacity as the one removed. If they want to go beyond that, we do not believe expansion is something we should pay for.

Senator ISNOR: General Clark, are you going to file a copy of that agreement, for the use of the members of the committee?

General CLARK: The agreement which is referred to is given as a schedule to the bill. This is a brief outline, not a detailed one.

When Senator Lambert moved the second reading of the bill, I notice there was a suggestion that this committee might wish to go to some of these areas about which we are speaking, or indeed to other works of the commission. If it is in order for me to do so, Mr. Chairman, I would say the commission would be most happy to arrange a tour, for half a day or a day, or for whatever length of time senators would wish. Indeed, we would be very happy if this invitation could be extended to the Senate as a whole. We could have lunch in Gatineau Park in the open and tour these areas.

The CHAIRMAN: It sounds very attractive. Thank you for the invitation.

General CLARK: If you could give a week's notice, we would watch the weather and make arrangements. We would go by bus although it is not as comfortable as by automobile; we would have sufficient staff to answer questions, which we might not have if we travelled by automobiles.

Senator FOURNIER (*Madawaska-Restigouche*): Do I understand right that the C.P.R. north shore line from Montreal to Ottawa would terminate at Hull?

The CHAIRMAN: No, no.

Senator FOURNIER (*Madawaska-Restigouche*): The north shore line C.P.R. Montreal to Ottawa; where will it terminate? Hull? Or how will it reach the new station?

General CLARK: This is the north shore C.P.R. line and comes in through Hull. It will cross the Prince of Wales bridge, come down past Ottawa West, along the Prescott Subdivision.

Senator FOURNIER (*Madawaska-Restigouche*): I get the answer now.

Senator MOLSON: Before General Clark finishes, may I ask if there is anything contemplated in these over-all plans to provide a better access to and from the airport than is presently available?

General CLARK: Yes. This is not part of the railway relocation but we have plans for it. A decision has not been made yet. Studies were made by Dillon and Company, an individual study of what we call the southern entrance freeway. It is a very pleasant project. We have part of the land and it is possible to make a very fine connection to the air field. We do not have any financial authority to go ahead with this at the present time but, in advance of need, we have acquired the land. If you look at the map you will see a green strip of land coming down very close to the air field. This is owned by the commission, to provide for the day when this road is constructed. This of course, in our view at the moment, would not be exclusively a commission responsibility, because part of it is a provincial responsibility, part of it is a City of Ottawa responsibility. It will undoubtedly be one of those agreements with perhaps two parties inside city limits and another two parties outside the city limits. Very definitely we have various proposals for this and we hope some time to get authority to do it.

Senator BOUFFARD: I would like to put a few questions to the General, if he would care to answer. When do you expect this new station will be available for passengers?

General CLARK: Our hope is that the station would be open some time late in 1966.

Senator BOUFFARD: Could you give us an idea of the total cost of these works of relocating the lines?

General CLARK: The whole cost?

Senator BOUFFARD: Yes.

General CLARK: It seems, Mr. Chairman, that when I give figures—I gave one the other day to Senator Lambert and I regret to say it is not the figure I am about to give now. I gave one then but this will be slightly larger. It is on the order of \$28 million to \$29 million.

Senator BOUFFARD: How is it going to be shared, by whom and to what extent?

General CLARK: This is the expenditure which will be made by the N.C.C. in providing the railways with the station where they had a station, with a workshop where they had a workshop, unit for unit or facility for facility. What is happening is this. We agreed that when these railway lines were removed, and where the railways had an operational freight shed, a round-house or a repair shed, it would be fair and reasonable, if we move them away, that we would build for them a new one in a new location. Therefore, we receive all these assets from the railway, both land and buildings, and we provide the new one to them. From the railways—these are round figures—the N.C.C. will receive about \$23 million of assets in the way of land and buildings. It is true that we will tear down some of these buildings. The estimate is the depreciated cost of the buildings that we take over. Indeed, most of those we are removing, and then we would have left some 450 acres of very valuable land for re-development, some in the heart of the city.

Senator BOUFFARD: Do you take these constructions of the railway at book value?

General CLARK: I will answer that and if I am incorrect I am sure the railways will correct me. In the case of buildings, they were the depreciated values of the buildings. Generally in the case of the land, it is the market value. This is the general method.

Senator ISNOR: To sum it up, it is \$28 million net.

General CLARK: No. It is very hard, if I may say so frankly, to strike a balance on net, because we have asked that these lines be removed. We are taking over buildings and we are tearing them down. In fairness, we have to give the railways a new station if they had an old one. If we wanted to use the station building, we could use it or rent it, but if we feel that the part of the city, for example where Union Station is located, should be redeveloped, and the Station power plant and old sidings should be taken out. We would as in the case of any private developer look at what it would cost to tear down the buildings and redevelop. It costs us \$28 million or \$29 million for the whole relocation plan. On the other hand we get assets comprising very valuable land.

As you recall, the Government authorized us to expropriate land in the Lebreton Flats area, and we are now buying it, so we are able to assemble a very large area, which we hope will meet the need for Government building for a long period of time.

Similarly, when we provide a right of way, for something like the Queensway, we show this as a financial contribution at market value. In other words we show it as part of the financial contribution we are making to a project. We do have these rights of way, which are valuable assets. We have made possible the building of these new arteries for increased traffic, which

it would be very difficult to do simply by going through houses. We were fortunate in that way.

Senator STAMBAUGH: Have you any information as to when you might build a new driveway to the airport?

General CLARK: No, sir. I can only say when I would wish it to be. We make these plans and the commission has to recommend its plans to the Government and to the Treasury Board. We put these things into our program when our budget permits. We are always very happy when such things are approved.

Senator STAMBAUGH: You have not got that far yet?

General CLARK: No sir.

Senator REID: There was a committee in the House of Commons which did an investigation regarding this. I want to know how you are getting along with the bill with the city council? I really mean that, because I remember about it and we travelled all over the city.

General CLARK: I am one of those fortunate people who do not really indulge in the luxury of being unfriendly with anyone. I think I get along quite well.

Senator REID: You have answered the question pretty well.

General CLARK: I did my best.

Senator REID: I am still wondering about the experience you had, as compared with what I had on the committee.

General CLARK: We feel we will be able to work out any problem. Some will take more time than others.

Senator REID: Did you get co-operation?

General CLARK: I have no complaints about co-operation from any of the people I deal with.

Senator REID: You need it.

Senator ISNOR: I am not a resident of Ottawa and not familiar with the surroundings to the same extent as are Senator Lambert and others, but I wish to come back to a question I asked earlier in the meeting, in respect to the Hurdman Road, Riverside Drive tracks. You told me there were nine crossings. There has been quite a development in that section of the city and I am wondering as to whether you could give anything definite in respect to the removal of those tracks.

General CLARK: In regard to the Beachburg Subdivision which runs from Wass to Hurdman Bridge the original plan did call for its removal when the site for the railway station was at Walkley. There would be no need for this track, because it is a straight run into the station from the East and West. But when it was decided that the station would be moved closer to Hurdman, this line was left in, because it was needed for efficient railway operation. The railways have the time problem pressing on them. It seems that people using the railway like anyone else, like to get where they are going quickly.

Senator ISNOR: Are they C.P.R. or C.N.R.?

General CLARK: These (tracks from Wass to Hurdman) will be owned by both. When the Terminal Railway Company is formed it is a company and both railways will run over its line as part of the Terminal Railway Company, in other words, it will be jointly owned by them. The railways are trying to get fast trains west to Toronto, and they have to count every extra mile. The resolution to this problem in the long run is to separate the grades where there are busy traffic streets. Where they are busy, the grades should be separated. I cannot go further than this, because it is not the business of

the commission to provide grade separations, or order them, except where we agreed on relocating a particular line. This is outside our terms of reference.

Senator ISNOR: I wonder if the representative of the C.N.R. or C.P.R. could give an answer to that question, as to the future of these particular crossings.

The CHAIRMAN: Before that, is there any further question to General Clark? I think he has given us a very comprehensive picture of the situation.

Senator DESSUREAULT: In regard to some of the buildings near the present Union Station, have you expropriated any of them yet?

General CLARK: We have expropriated buildings round the present Union Station. We have expropriated the buildings along Rideau Street, from the east side of the station to Little Sussex Street and along Little Sussex Street to the side entrance to the station. There are the buildings and a hotel adjoining the station. These were expropriated some years ago and we are leasing them.

The CHAIRMAN: If there are no further questions of General Clark I think I express the view of the committee as a whole in thanking him for his extremely interesting presentation and the details he has given to us. Whether we will accept his kind invitation at some time or not, I am not yet in a position to say, but certainly we will bear that in mind.

General CLARK: Thank you very much, Mr. Chairman.

The CHAIRMAN: Honourable senators, in connection with what Senator Isnor said a few moments ago, my mind is running along the same lines. I wonder if it would not be interesting to hear from the railways now a little more about the actual station itself and the lines surrounding it, and how they propose to operate it. I think that might answer your question, Senator Isnor.

Senator ISNOR: Yes, Mr. Chairman.

The CHAIRMAN: Is there anybody from the railway companies who can give us a general idea of what the new station is going to be like and the problems of operating it?

Mr. BURNS: I would be agreeable to, Mr. Chairman.

The CHAIRMAN: Yes, Mr. Burns?

Mr. BURNS: Mr. Chairman, I believe it would be advisable to give the honourable senators some indication of our present operation, and then go on to the new operation, and I would like to stand close to the map so I can point out the features I am explaining. At the present time Canadian National's eastern access to the city is via the Alexandria subdivision and carries on down into Union Station. At this point our line terminates and we must get our trains back on to what we call our Beachburg subdivision for western egress from the city. Consequently, it is necessary that we turn our trains in the Hurdman area. We have to back them out and proceed out over the Beachburg subdivision.

Canadian Pacific's eastern access to this city is via the Montreal and Ottawa subdivision. They join the Canadian National at Deep Cut at the present time and operate into the present station, and in so far as their western traffic is concerned, cross the Alexandra Bridge, they go through Hull, back across on the Prince of Wales Bridge, and out to Bell's Corners.

The CHAIRMAN: They do not have to back their western trains, and you do?

Mr. BURNS: Yes, and we do.

With regard to the other Canadian Pacific trains, the Toronto access is via the Prescott subdivision of the C.P.R., and those trains have to be turned. The North Shore trains have access over the Alexandra Bridge, and they have to be turned.

The freight operation of Canadian National formerly was via the Renfrew subdivision and the Bank Street yards. There again, all freight movements had to be reversed to bring them out onto the Beachburg subdivision. The Canadian Pacific's freight movements were explained by General Clark; they are concentrated in the Broad Street area.

In the new plan that is contemplated in the operation of the Ottawa Terminal Company, the two eastern accesses will remain the same: the Alexandria subdivision for Canadian National, and the Montreal and Ottawa subdivision for Canadian Pacific. Both will join what is known in the railroad as Hawthorne Junction by a new line which will be built between the two subdivisions. Both will pass through the station with no necessity for turning and will have immediate access to the Beachburg subdivision where they will split again at Bell's Corners to the individual lines. The movement of both through this area from Hawthorne to Bell's Corners will be on a common line and will be operated by the Ottawa Terminal Railway Company, the bill which you are considering today.

In so far as the freight movement is concerned for both roads, the connecting line between Hawthorne on the Alexandria subdivision of Canadian National and a point on the Montreal and Ottawa subdivision will serve to bring C.P.R. freight into the Walkley freight yards. Canadian National access to Walkley freight yards will be direct from the Alexandria subdivision and the Walkley line into Walkley freight yards, thence via direct exit to the west.

The CHAIRMAN: So the C.P.R. will join with you in operating the Walkley yards, will they?

Mr. BURNS: Yes, that is right; it will be operated by the Terminal Company to be.

The CHAIRMAN: At the present that is only a C.N.R. operation?

Mr. BURNS: Yes, at present that is only a C.N.R. operation.

To summarize, the passenger movement will take place through the station, a common line, and the freight movement will take place on a common line through Walkley. In other words, the freight will be on the outskirts of the city—that is, the major freight operation.

The CHAIRMAN: In the case of both passengers and freight it will be a through operation, without any necessity for reversal?

Mr. BURNS: Yes, that is right.

To answer honourable senators' questions, this question at the present time is under consideration.

The REPORTER: Would you kindly say which question?

Mr. BURNS: Yes, the question of the Beachburg subdivision and the elimination of crossings such as Springland and Heron Road.

The CHAIRMAN: Along Riverside Drive?

Mr. BURNS: This would create serious problems for the railways in again having to reverse trains and put them through the freight yards, and it would cause congestion there.

Senator ISNOR: Because of what you said, I would take it it is unlikely those tracks would be removed?

Mr. BURNS: That would be my opinion, Mr. Chairman.

The CHAIRMAN: Can you tell us anything about the form of the new station, the number of tracks, and all that sort of thing?

Mr. BURNS: The new station will have a total of eight tracks which will be a combination of storage and running tracks, and as they are known on the railway. Four tracks will be required for the running operation, and the remaining four for the standby equipment and the lay-over equipment—that is

the equipment that arrives in the morning and departs in the evening. The two centre tracks, which could commonly be called the transcontinental tracks, will accomodate trains of up to 24 cars at the platform. Passenger access to the tracks will be underground, similar to other stations such as Toronto and Montreal. The passengers will not be called upon to cross any tracks.

Now the building itself. Going in from the front of the building there will be a main rotunda. It will be similar in size to the combined rotundas in the present station. To the left of the main rotunda will be the services, such as baggage, the station master, the locker rooms. To the right of the main rotunda will be the rest rooms, ladies' and gentlemen's, service shops, restaurant, dining room. The ticketing for both roads will be in a circle in the middle of the rotunda, so the movement from the front door will be continuous to the ticketing, and beyond to the trains.

There will be four lanes of traffic permitted at the front of the station. The traffic will be one-way.

Immediately after passing the main entrance to the station an automobile will be able either to go directly to the parking space or circle out to the general traffic of the Queensway.

The CHAIRMAN: That is one of the objections to the present station, the lack of parking space. Have you provided ample parking space for the new station?

Mr. BURNS: There is provision in the immediate plan for a parking area for 160 cars. In addition grading plus necessary underground work, such as drainage, is incorporated into adjacent areas to increase the capacity to 320 cars, with 160 being on either side of the station.

Senator LAMBERT: May I ask if the approach of the trains to the station will be parallel to the platforms? That has been the weakness in Toronto for years.

Mr. BURNS: It will be parallel to the platforms.

Senator LAMBERT: It will not be like the Montreal station, where they come in endwise?

Mr. BURNS: There are certain tracks in Montreal—well, I am not sure which station you are talking about.

Senator LAMBERT: The Windsor station.

Mr. BURNS: No, that is what we call a stub end station, where tracks are not through. This station will allow all through trackage operation.

Senator PEARSON: Your freight sheds are up beside the station?

Mr. BURNS: This is located in that area at the present time at the corner of Alta Vista Drive and Terminal Avenue.

Senator PEARSON: How many platforms for freight will there be?

Mr. BURNS: It will be an entirely separate operation, and it will be the one platform as we have at the present time, and the Canadian Pacific operation will go in next to it, but divorced from the passenger traffic.

The CHAIRMAN: Starting from the south there will be, first of all, your terminal freight station, and then the C.P.R. freight station, and then the Union Station?

Mr. BURNS: The first will be the Canadian Pacific.

The CHAIRMAN: They will be south of you?

Mr. BURNS: Yes, immediately south, and then the Canadian National freight operations, and then the new station.

The CHAIRMAN: Are there any further questions of Mr. Burns?

Has Mr. Miller anything to add from the point of view of C.P.R.?

Are both you gentlemen perfectly satisfied, from the point of view of the railways, with the design and the proposed operation?

Mr. MILLER: We have collaborated closely on the plans for the design of the station and the operations. The explanation Mr. Burns has given of the design of the station is quite adequate, but I would be pleased to answer any questions you might like to ask.

The CHAIRMAN: Thank you, Mr. Burns.

Gentlemen, have we had enough evidence as to the physical location and the design of this whole proposition—or do you want to hear any further evidence?

Senator FOURNIER (*Madawaska-Restigouche*): Did I hear that there were some truckers here?

The CHAIRMAN: I was going to call upon them next. Perhaps before we consider the bill itself we might hear Mr. Julian Gazdik, the representative of the Canadian Trucking Associations, if honourable members are satisfied to hear him. Does that meet with the approval of the committee?

Hon. SENATORS: Agreed.

The CHAIRMAN: Mr. Gazdik is counsel for the Canadian Trucking Associations.

I hope you are not going to read all those volumes you have with you, Mr. Gazdik?

Mr. Julian Gazdik, Counsel, Canadian Trucking Associations Inc.: Mr. Chairman, I do not want to frighten you with all these books, but I have them in readiness for questions that may be asked.

Mr. Chairman, thank you for the opportunity given to the Canadian Trucking Associations to present their views.

What I have heard this morning fills me with a certain amount of admiration for the wonderful plan which has been presented in a physical form in front of you. To some extent I have a certain amount of regret, having heard this wonderful plan, that I have to bring to your attention a few technical legal problems which the Trucking Associations feel should be considered at the same time this new plan is considered. My instructions are to address myself particularly to three paragraphs of this new bill which is in front of you. The three paragraphs are: paragraph 9 which deals with the undertaking itself; the second one is paragraph 10(g), which is briefly termed "Transfer Service"; and the third one is paragraph 19, which determines that, "The works and undertaking of the Company are hereby declared to be works for the general advantage of Canada."

If one turns first to paragraph 9, paragraph 9 says:

(1) The Company may acquire, construct and operate a railway and related facilities in or about the City of Ottawa for the purpose of providing a transportation terminal.

May I invite your attention to this wording of "transportation terminal."? This is not any more a railway terminal that this refers to; it refers to a transportation terminal—a terminal that presumably deals with and handles other matters than railway traffic. I think in that sense this is a considerable extension of the present Union Station operation, or for that matter to operations of any freight yards that Canadian National Railways or Canadian Pacific Railway are operating in the City of Ottawa.

Senator ISNOR: Outside of the City of Ottawa—you have in mind transport and trucking of goods?

Mr. GAZDIK: Yes. I do not think just in that sense there is at this stage any other operation which can be termed as a transportation terminal. I do not think that there is such a terminal yet. There may have been some ambition on previous occasions to create some such new creation, but there is not one that is already in existence. At least, to my knowledge, there is no transportation terminal, because there could not be. The purpose of the railways and their operation is operating railways. When they go outside of the railway operation they have to seek some specific authority, and I think that the Canadian National Railways authority is laid down in that respect in the Canadian National Railway Act.

The Canadian National Railways, under the Canadian National Railway Act, can only operate trucking services, and I am using specifically the term "trucking services" in conjunction with or in substitution for railway services that it operates.

Now, how can the Canadian National Railways, when it cannot operate general trucking itself, participate in an effort which is entirely a provincial matter, if you wish, which is general transportation facilities, and which is not even called for on the strength of this memorandum of agreement that is attached to this bill? This memorandum of agreement calls for a specific railway terminal, for the creation of a railway terminal. It does not call for a terminal which will handle every means of transportation, irrespective of whether it has anything to do with railways.

The CHAIRMAN: Mr. Gazdik, I can foresee the possibility that at some future date the railways and the trucking companies may wish to get together and use some of the facilities of this new terminal jointly. Would it not be feasible to provide for such a possibility.

Mr. GAZDIK: I believe this possibility in the future may arise.

The CHAIRMAN: Then should we not leave this word "transportation" here?

Mr. GAZDIK: Maybe, as I say, it might be desirable to have such a thing. However, my point is, and it is purely a legal point, that when the Canadian National Railways cannot itself do these things, I do not think it can do it directly through the incorporation of another company, and that is that other company which is being incorporated.

There is a certain amount of facility available for the Canadian National Railways to operate a certain type of trucking services. Through this the extension would be very much better. My submission would be that a monopoly, if I may use that word, would be created right under the supervision and the control of the Canadian National Railways, and under the Canadian Pacific Railway. If it is desirable to create such a monopoly, this is a matter which no doubt Parliament can do, but before Parliament does it, I think Parliament's attention should be called to it. That is really the point I want to make.

The CHAIRMAN: Mr. Gazdik, by reading section 9 and the words "transportation terminal" in conjunction with paragraph (g) of section 10, and which gives this terminal company the right to trucking services, and so on, is it not a fact that both Canadian National Railways and Canadian Pacific Railway do themselves engage in certain trucking services; and seeing that they are joining together in this new terminal railway company, is it not the object of this simply to allow the new terminal company, in so far as it represents both railway companies, to carry on what the railway companies are doing themselves now?

Mr. GAZDIK: I think what you are saying is quite true, Mr. Chairman. The Canadian National and the Canadian Pacific are doing certain trucking operations. However, they are limited so far as Canadian National is concerned.

Senator BOUFFARD: I think the Canadian National Railways has a company which specializes in trucking and bus services, and that they are at the present time operating quite a few bus lines within the control of that company.

Mr. GAZDIK: I will answer this, Mr. Chairman. I think it is quite correct, again, that Canadian National Railways have the Canadian National Transportation Limited, which in turn owns a certain number of trucking companies. It is my submission on behalf of the trucking associations that to the extent that those companies operate not in conjunction with and not in substitution for the railway operations, such operations are illegal under the terms of the Canadian National Railways Act.

Senator BOUFFARD: Are not most of them provincial companies?

Mr. GAZDIK: Even if they are provincial companies, the principle applies that what you cannot do directly under the law you cannot do indirectly.

Senator BOUFFARD: It means that Canadian National or Canadian Pacific would not have any right to own shares in a provincial company which does trucking operations?

Mr. GAZDIK: Not quite, sir. I think you are going a little further than I would venture to go. I think we must make a distinction between the Canadian National and the Canadian Pacific. The Canadian Pacific Railways are incorporated, if I am right, by letters patent, and they have a much wider authority than Canadian National Railways which is governed by one act, which is the Canadian National Railways Act, and that act has given very wide functions. For instance, it controls hotels, steamships, and so on, without any reference to Parliament. Parliament very carefully circumscribed the trucking operations of Canadian National Railways, which only was in conjunction or in substitution for their railway operations. So, therefore, as far as Canadian National Railways is concerned, and this is our submission, its functions are limited by the act. Further, directly or indirectly, it would be rather silly to say on the one hand to the Canadian National Railways, "You cannot do it, but if you incorporate another company, the other company can do it, and if you run this other company as a department of your own you are free to do so." Nobody, surely, could have thought of that.

Senator BOUFFARD: Would you go so far as to say that Canadian National Railways has not the right to incorporate a provincial company and own shares and that provincial company would do all it is authorized to do by charter?

Mr. GAZDIK: All it is authorized to do by its charter is that Canadian National Railways cannot control this company unless this company indirectly complied with the Canadian National Railway Act. If you construed it differently, then surely the result is that in conjunction with and in substitution for provision in the Canadian National Railways Act are meaningless.

Senator BOUFFARD: They certainly have been doing that for years, and nobody has ever thought that it was going to be questioned on legal grounds. It has never been brought up in Parliament, so far as I know.

Mr. GAZDIK: If I may say so, there is an action pending in the Superior Court of the Province of Quebec. The purpose of the action is to establish that operation by the Canadian National Railway Company of the Canadian Transportation Limited, to the extent that it operates indirectly trucking services not in conjunction with or in substitution for the railway services, is illegal. This action started two years ago. The same point was declared illegal before the transport board in the Province of Quebec, which has a case before it pending in the form of a motion on which a decision has not yet been rendered.

The CHAIRMAN: Let me see if I understand you correctly Mr. Gazdik. You say that the C.N.R. is limited in its trucking operations by its act of incorporation. Would you say that the C.P.R. is not?

Mr. GAZIK: I am afraid this is a peculiar result of the law.

The CHAIRMAN: Well, that is the present situation. The C.P.R. is not limited, and you say the C.N.R. is. What you are afraid of is that if we give to this Ottawa Terminal Railway Company the general powers of paragraph (g) to establish trucking matters, we would be extending the powers of the C.N.R.?

Mr. GAZDIK: That is quite right.

The CHAIRMAN: But, on the other hand, you would not be extending the powers of the C.P.R.

Mr. GAZDIK: That is absolutely correct, sir. If the C.P.R. chooses to do business with the C.N.R. I think the C.P.R. will have to take the consequences, and that the C.N.R. cannot go further.

The CHAIRMAN: It depends on what Parliament decides to do?

Mr. GAZDIK: That is my submission, yes.

Senator BOUFFARD: That would be an extension only in and around the City of Ottawa; it would be limited to that?

Mr. GAZDIK: I appreciate this point. I thought about this a great deal. I am not sure whether the manner in which this is written one could safely conclude this way. If it was only in the City of Ottawa, perhaps the issue that I am raising is a very small issue and should not be considered.

The CHAIRMAN: I do not see how that could possibly give this new company the right to operate trucking facilities between Ottawa and Toronto, do you, Senator Bouffard?

Senator BOUFFARD: I do not think so.

The CHAIRMAN: I see your point.

Mr. GAZDIK: If you take clause 10 of the bill it says:

For the purposes of its undertaking, the company may, in accordance with and subject to the provisions of the Railway Act,...

The CHAIRMAN: Yes, "For the purposes of its undertakings;" and clause 9 is entitled "undertaking", and says:

1. The company may acquire, construct and operate a railway and related facilities in or about the City of Ottawa for the purpose of providing a transportation terminal.

I would construe that as meaning in so far as trucking power under section 10 is concerned—simply the right to operate trucks in and about the City of Ottawa.

Senator BOUFFARD: It might be a good thing to clarify clause 10(g), and say "in and about the City of Ottawa." There is no limitation in clause 10(g).

The CHAIRMAN: Except the limitation in clause 10 as to undertaking.

Mr. GAZDIK: Mr. Chairman, I am very grateful you have raised this point because I omitted to mention the construction of clause 9 which I put on it. In clause 9, the undertaking has really two parts. The first part of the undertaking is to operate a railway, and then it goes a little further and says, "for the purpose of providing a transportation terminal." Well, the undertaking also, therefore, is to operate or to provide a transportation terminal. If you read the undertaking in that sense, then clause 10 becomes much wider. There are just two parts of it, and the term "transportation terminal" to which I addressed myself earlier, is so wide an expression, that I submit that it is separated and additional to the operation of the railway, which is also provided as one of the undertakings.

Senator STAMBAUGH: Would not section 10, which sets out that the company is subject to the provisions of the Railway Act, cover that?

Mr. GAZDIK: I regret to say, no. The Railway Act only regulates the railway operation, and it does not regulate in any form whatsoever that peculiar expression "transportation terminal". To that the Railway Act does not apply. Nor I think does it apply to any of the operations under clause 10(g), that is the operation of buses, the operation of trucks. We have cases deciding this issue already by the Supreme Court of Canada. I think it is very clear that that is exactly the result. As far as trucking operations are concerned, they remain completely without control. There are no provincial authorities which can control the trucking operations, no federal authorities which can control trucking operations, of the new company. It falls within two areas. Our submission is that it is not in the public interest, not in the interest of the shipper and is creating a preferential treatment regarding this new company, as compared with other companies who are subject to provincial control as trucking companies.

Senator BOUFFARD: There is nothing to say that the Terminal Company will come more under the jurisdiction of the province or under the jurisdiction of the Railway Commission, so no one will have jurisdiction over the Terminal Railway if they operate a truck or a bus?

Mr. GAZDIK: That is right.

Senator BOUFFARD: That is the Quebec Railway case.

Mr. GAZDIK: It is the Quebec Railway case I quoted here.

The next point is this. There is no place to go to contest the public convenience and necessity. We must come here to Parliament. This is the last stage in which we can say that there is no need for this service, for two reasons. First, there are sufficient trucking operations under provincial control. Again I am referring only to trucking operations, but equally I think one could say buses and taxis and other means of transport which are under provincial authority and which render these services. There is no reason in saying why these services should be done by C.P.R. and C.N.R. jointly in this new venture. There is no justification.

Secondly, there is no justification regarding the memorandum of agreement. If you take the memorandum of agreement—and I went through almost every paragraph of it, you will see there is nowhere one requirement in order to carry out the objective of the memorandum of agreement to operate trucks, buses, or for that matter any additional means of transportation, anywhere.

If there is no requirement, why should this new company suddenly operate trucking services without any control? Before Parliament would enact any law of this kind of heaviness, there should be some good reason. There is none, none in the schedule, none in the existing lack of trucking operations. I have heard of no complaint that the truckers are not sufficiently serving the present needs of Ottawa, for that matter, or of any increase of traffic. So this would be only giving a new right to a new company without any control, to go into this business.

The CHAIRMAN: Would your objective be met if we started off subparagraph (g) by some such words as "subject to the provisions of any provincial law regulating transportation by trucks, buses, cabs or other highway vehicles."

Mr. GAZDIK: Mr. Chairman, I regret to say that this would be without merit because there would be no provincial law which would govern this. There would be no provincial law, there would be no federal law.

The CHAIRMAN: If we said "provincial law would apply", it would apply.

Mr. GAZDIK: Would not that be *ultra vires*?

Senator BOUFFARD: The only thing that might happen is that this legislation might indicate that the commission or a provincial authority would have a right to look into the operations of the new company.

Mr. GAZDIK: That would be all it would do, but you would cover the possibility for a federal company, the possibility of doing trucking and such business, which at the present time they have not got. Even if you say that in the bill, I do not think that the provincial commission would take jurisdiction, because I do not think it would have the right to take jurisdiction of the operations of this railway company.

Senator PEARSON: This railway company does not come under the Railway Commission at all, this one?

Senator BOUFFARD: It comes under the Railway Commission completely, but the Railway Commission has no order in its act concerning trucks or buses. It is already stated that the Railway Commission has no right at all to regulate trucks and bus operations, whether it is by a federal company or a provincial company, and especially by a federal company. They decided in the Quebec Railway case that there was no jurisdiction in any one, either the provincial commission or the railway commission to control and regulate bus and truck operations.

The CHAIRMAN: Have you made your submission?

Mr. GAZDIK: Our submission is that paragraph (g) should be deleted. This is what we ask, for the reasons we have outlined.

Alternatively, perhaps it could be dealt with in the same manner as 10(f) which deals with telecommunications, telegraph and telephone companies. There would be no more difficulty if the C.N.R. or this new company wishes to enter into an agreement concerning bus companies, truck companies and taxi companies. Surely that would be possible. I think they have foreseen the possibility regarding telegraph and telephone companies and I think this could be dealt with in exactly the same manner. Then I think there will be no more problem, no more jurisdictional question and the matter would be resolved.

Senator BOUFFARD: I am not so sure about that. In accordance with the Railway Act, the C.P.R. and C.N.R. have a right to operate telephones under their own operations, subject to the Railway Commission's jurisdiction.

Mr. GAZDIK: That is right, but if they do so the company with which they deal would not be C.P.R. companies, they would be companies under provincial jurisdiction already. Nothing stops them dealing with this traffic, that is apparently to be carried away from the station or terminal which is to be establish. That is a form in which it could be dealt with.

Even if that were not feasible, our third submission regarding this paragraph is that at least the saving words "in conjunction with" or "in substitution for" should be inserted in the same manner as those expressions are inserted in Article 27 of the C.N.R. Act. We do not think this is an entirely satisfactory solution but I think it would to some extent save the situation.

The CHAIRMAN: What was the wording you suggested?

Mr. GAZDIK: It was "in conjunction with" or "in substitution for", railway services under control of the company. I do wish to say that this last solution, purely from a legal point of view, is not satisfactory. It is the same or similar to what is in the C.N.R. Act but some constitutional objections can be made to this.

Mr. Chairman, may I turn now to the very last paragraph that we have an objection to. It is paragraph 19. If paragraph 10(g) is deleted, then we have nothing to suggest regarding paragraph 19. On the other hand, if paragraph 10(g) remains, then we think that paragraph 19 should be changed so as to conform with Article 18, paragraph 3 of the Canadian National Railway Act.

This again comes to the difficult problem of what is provincial and what is under federal jurisdiction. It was in 1955, when the C.N.R. Act was passed that it was discussed for days and days and I will not burden you with the discussion. The clause was, for the purpose of this section, which is substantially the same as section 19:

The expression "railway and other transportation" does not include any works operated under authority of section 27.

We would like to say something, that exception should be made in section 19 regarding works undertaken under 10(g), so that we at least preserve to the extent it is possible, the provincial nature of the trucking operation under 10(g).

The CHAIRMAN: Thank you, Mr. Gazdik. Are there any questions?

Mr. Gazdik has raised a legal question. Mr. MacDougall, Counsel of the C.N.R., have you anything to say?

Mr. MACDOUGALL: Yes, if I may.

Mr. GRAHAM MACDOUGALL, Counsel, C.N.R.: Mr. Chairman and honourable senators, I had no notice of Mr. Gadzik's appearance here and of the matters he would be raising before you this morning. However, the C.N.R. has had ample notice of the fact that the legal matters of which he has spoken today have been before the courts of the Province of Quebec for a considerable time, for several years.

My first submission with respect to legal points and objections which he raises to the bill, is that for C.N. we do not agree for one moment with the legal position that Mr. Gazdik has put before you. We have taken a position directly opposed to that which he has put before you. It is now before the courts of Quebec and the matter is at present *sub judice* there. I would not at the present time endeavour to explain the legal reasons why we object to the position which Mr. Gazdik put before you as to the C.N. and its powers to operate subsidiaries and trucks and so forth. That matter is before the court and it would be presumptuous for me to attempt to give a detailed legal argument here contrary to the views of Mr. Gazdik.

I think it is sufficient for honourable senators to know that the points which he has raised are points of contention as to the legal position of the parties involved and they are points which properly have been placed before the courts, where they belong. They will be dealt with by the courts to finality, and when a decision is made by the courts as to the propositions made by Mr. Gazdik, that ruling will govern the operations of C.N. and the position of the Canadian Trucking Association.

Senator BOUFFARD: Unless we expand this bill, to give some new power in it.

Mr. MACDOUGALL: It is always open to the Parliament of Canada to give such powers, if it may wish to do so. On that point, I would deal, not with the C.N. or C.P. as such, but with the new terminal company which is to be incorporated for the purpose of implementing the railway aspect of the N.C.C. plan. It is entirely as you say, within the purview of Parliament to grant such powers or deny such powers, as it may wish, now or in the future. The stock in the company, as the bill says, will be 50-50 C.N. and C.P., but its powers will be exercised by the Ottawa Terminal Railway Company as a corporate entity itself, and its purpose is to serve as the railway terminal company here in the City of Ottawa.

Mr. Gazdik raised a point as to why it was called a transportation terminal. This phraseology was given considerable thought in the drafting of the bill. As you, Mr. Chairman, pointed out the undertaking in clause 9 of the bill is I think clearly set out as one undertaking, that is, to incorporate a company

which will acquire, construct and operate a railway and related facilities in or about the City of Ottawa for a specific purpose. If we had incorporated or attempted to incorporate a terminal railway company, my suggestion is that this company would be confined solely to the movement of railway cars on tracks, switching between railroads and carrying out movements in the railway yards. It was felt that for a project such as the N.C.C. plan, to incorporate a company with such a limited power that it would be able to operate only rail terminal operations, would not provide for the transportation terminal co-ordination that we feel is needed here in Ottawa. As honourable senators know, in recent years there has been a great deal of dovetailing between road and rail operations. Mr. Gazdik, for the Canadian Trucking Associations, of course, you will see from his presentation, wishes to keep the trucking for the truckers and have the railroads confine themselves to railway operations. But the two railway companies have made it clear they feel they are in the transportation business and when we need subsidiary trucking to the railway operations we provide that facility under the powers we feel we validly have, and at other times by agreement with local truckers. It is felt within the City of Ottawa there will be a need for much closer liaison between railways, highway and air operations, and operations by any other mode of transportation. It was felt logically this specific company should have the powers of and should be designated as a transportation terminal, so all these various aspects of transportation could operate in and out of this terminal, and it would have valid powers to provide space and facilities for the co-ordination and dovetailing of various types of operations. This is particularly important with the small package business such as express and less carload trade. Some will go by air and rail, some by truck and rail, and we can see a flow of traffic in and out of this terminal which, if this company were confined to rail terminal operations, it might find it would lack the powers to carry out the full transportation required.

Senator BOUFFARD: Would you be satisfied if we limited it to trucks and buses in and about the city of Ottawa?

Mr. MACDOUGALL: There is no intention under this bill to do more than that.

The CHAIRMAN: I do not think you can do it under this bill.

Mr. MACDOUGALL: The undertaking is to acquire, construct and operate a railway and related facilities in or about the City of Ottawa for the purpose of providing a transportation terminal, under clause 9. Specific powers are defined in clause 9 and clause 10(a) to (g), and subclause (g) deals with the power to establish and operate for hire a service for the conveyance and transfer of goods and passengers. I would submit the only reasonable construction that could be given to subclause (g) is that those operations of trucks, buses, cabs and other conveyances which might include, in the future, hovercraft, monorail and helicoptetr operations—any type of facility which is needed to move goods and passengers between the terminal and the centre of the City of Ottawa or some other point—would have to be done in connection with this undertaking.

The CHAIRMAN: That is the point that occurred to me when you discussed the words "a transportation terminal." It might include a helicopter port next to the station.

Mr. MACDOUGALL: Yes, and it might include hovercraft. This is something we are providing for the next 50 or 75 years in Ottawa, and we think it would be most improper to restrict it to a strictly rail terminal operation. That is why we attempted to give it the aspect of a general transportation terminal.

Senator BOUFFARD: You would be satisfied if we limit the operation to trucks and buses in and about the City of Ottawa?

Mr. MACDOUGALL: I think there is that limitation now.

Senator BOUFFARD: Supposing there is not?

Mr. MACDOUGALL: I would say that is the only power given to the Terminal Company now.

The CHAIRMAN: I rather liked the third suggestion Mr. Gazdik made, to insert at (g), "in conjunction with railway services under the control of the company." I do not think that is strictly necessary.

Mr. MACDOUGALL: I would point out those words Mr. Gazdik speaks of in the Canadian National Railways Act, section 27 are words they are relying on in the case before the Quebec courts, to say that Canadian National's powers to operate highway vehicles are restricted, the words "in substitution for" have specific reference to substituting highway services where we abandon a branch line.

The CHAIRMAN: That does not apply here.

Mr. MACDOUGALL: I cannot see we would have any particular objection to further clarification if needed. I cannot speak for Canadian Pacific Railway, or anyone else who may be affected but certainly the purpose of the transfer service was simply to do that. It may well be we will make arrangements with local transportation agencies to handle these people and goods between the new transportation terminal and points in Ottawa. This will be done by taxis, buses and trucks. It may well be we would want to be in a position where we could say, "We will do this ourselves," because to leave it to other people to do it would be—well, it might be less economic, but it would be, I suggest, improperly limiting the powers of this new company. They should have powers to do these things themselves. They may well, however, have them done by private operators.

Senator FOURNIER (*Madawaska-Restigouche*): You are not prepared to say it is your immediate intention, but you want to provide for the possibility?

Mr. MACDOUGALL: We want to make sure the passengers and other people using the terminal company's services for distribution of goods will be ensured that this company has the power to provide the service they require. If it cannot be provided by other services locally, or if it is considered too expensive to do it by hiring local services, then it can be done by the terminal company itself.

Senator BOUFFARD: You would agree to limiting it to, "in or about the City of Ottawa"?

Mr. MACDOUGALL: I have no objection.

Paragraph 9 speaks of the undertaking of the company in these terms:

The Company may acquire, construct and operate a railway and related facilities in or about the City of Ottawa for the purpose of providing a transportation terminal.

It limits it as you suggest.

Senator BOUFFARD: It is limited there, but it is not in the second paragraph.

Mr. MACDOUGALL: As a lawyer—and I bow to you in that respect—but, with respect, I do say that the words "For the purposes of its undertaking" have the effect of relating the specific powers in clause 10 back to clause 9, which describes the undertaking, and subsection (g) as part of clause 10, must be related to the purpose of the undertaking.

Senator BOUFFARD: That is your interpretation, but it may be a judge might interpret the whole thing in some other way.

The CHAIRMAN: I think that would be clear if we put in at the beginning of paragraph (g) "in or about the City of Ottawa", and with the words at the beginning, "For the purposes of its undertaking", I do not see any legal question arising there.

Senator BOUFFARD: No.

Mr. MACDOUGALL: Finally, with respect to the suggestion made by Mr. Gazdik that there should be some limitation with respect to the powers given in section 19, declaring the works and undertaking of the company to be for the general advantage of Canada, certainly if the Quebec courts were to find in his favour with respect to the case that he now has before them, that ruling would have application to Canadian National. This Terminal Company is a separate corporate entity, and I think it is proper that the works and undertaking should be declared to be works for the general advantage of Canada; and I can see no merit in the point that he made with respect to paragraph 19. Certainly, there is no merit in making all rules that apply to Canadian National apply to the new Terminal Company. This is a separate company, not controlled by Canadian National. It is not a subsidiary of the company, but a company in which we would have an interest with the Canadian Pacific.

The CHAIRMAN: Gentlemen, we still have the bill itself to consider. I doubt whether we could consider it now, it being 20 minutes to 1. Perhaps we should adjourn to consider the bill at another meeting. Perhaps while we are doing that our law clerk for our next meeting could give us his opinion as to just what the effect would be if we were to insert those words in paragraph (g), "in or about the City of Ottawa". I think we would be happier if we knew just what we were doing in that regard. I suggest we might adjourn to our next meeting. Perhaps we might defer the next meeting until we have the printed transcript of our proceedings today. In the meantime we will have been able to refresh our minds on what Mr. Gazdik and Mr. MacDougall have told us. I do not think there is any rush about this bill. Is that the understanding, then, honourable senators?

Hon. SENATORS: Agreed.

The CHAIRMAN: There is nobody present who wishes to make any representations, is there? Is there any member of the public or anybody else?

Senator LAMBERT: Is the purpose of this delay for the reconsideration of the drafting of clause 9?

The CHAIRMAN: Partly, and partly to consider the bill section by section. We have not looked at it yet.

Senator LAMBERT: I understand that, but the main point is that—

The CHAIRMAN: —is the one Mr. Gazdik raised.

Senator LAMBERT: In this connection, I would suggest the third party to this whole thing is the National Capital Commission, which should be consulted very definitely as to whether or not it foresees any handicap in the changing of this clause.

The CHAIRMAN: We will be very happy at our next meeting if General Clark, or somebody he delegates to represent him, could tell us their views on this point.

Shall we adjourn to the call of the Chair, gentlemen?

Hon. SENATORS: Agreed.

The committee adjourned.



Second Session—Twenty-sixth Parliament

1964

THE SENATE OF CANADA
PROCEEDINGS
OF THE
STANDING COMMITTEE ON
TRANSPORT AND COMMUNICATIONS

To whom was referred the
Bill S-33, intituled: An Act to incorporate the
Ottawa Terminal Railway Company

The Honourable A. K. HUGESSEN, *Chairman.*

TUESDAY, JULY 21, 1964

No. 2

WITNESSES:

Lt. Gen. S. F. Clark, Chairman, National Capital Commission; Mr. Julian Gazdik, Counsel, Canadian Trucking Associations Inc.; Mr. J. W. G. Macdougall, Q.C., General Solicitor, Canadian National Railways, Mr. K. D. M. Spence, Commission Counsel, Canadian Pacific Railway.

REPORT OF THE COMMITTEE

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1964

THE STANDING COMMITTEE
on
TRANSPORT AND COMMUNICATIONS

The Honourable
ADRIAN K. HUGESSEN,
Chairman

The Honourable Senators

Baird,	Macdonald (<i>Brantford</i>),
Beaubien (<i>Provencher</i>),	McCutcheon,
Bouffard,	McGrand,
Bradley,	McKeen,
Buchanan,	McLean,
Connolly (<i>Halifax North</i>),	Methot,
Croll,	Molson,
Dessureault,	Monette,
Dupuis,	Paterson,
Farris,	Pearson,
Fournier (<i>Madawaska-Restigouche</i>),	Phillips,
Gelinas,	Power,
Gershaw,	Quart,
Gouin,	Reid,
Haig,	Robertson (<i>Shelburne</i>),
Hayden,	Roebuck,
Hollett,	Smith (<i>Kamloops</i>),
Horner,	Smith (<i>Queens-Shelburne</i>),
Hugessen,	Stambaugh,
Isnor,	Taylor (<i>Westmorland</i>),
Jodoin,	Thorvaldson,
Kinley,	Veniot,
Lambert,	Vien,
Lang,	Welch,
Lefrançois,	Woodrow—(50).

Ex officio members

Brooks,
Connolly (*Ottawa West*).

(Quorum 9)

ORDER OF REFERENCE

Extract from the Minutes of the Proceedings of the Senate, Thursday, June 11th, 1964.

"Pursuant to the Order of the Day the Senate resumed the debate on the motion of the Honourable Senator Lambert, seconded by the Honourable Senator Hugessen, for second reading of the Bill S-33 intituled: "An Act to incorporate the Ottawa Terminal Railway Company".

After debate, and—

The question being put on the motion, it was—

Resolved in the affirmative.

The Bill was then read the second time.

The Honourable Senator Lambert moved, seconded by the Honourable Senator Roebuck, that the Bill be referred to the Standing Committee on Transport and Communications.

The question being put on the motion, it was—

Resolved in the affirmative."

JOHN F. MacNEILL,
Clerk of the Senate.

MINUTES OF PROCEEDINGS

TUESDAY, July 21st, 1964.

Pursuant to adjournment and notice the Standing Committee on Transport and Communications met this day at 10.25 a.m.

Present: The Honourable Senators: Hugessen (*Chairman*), Buchanan, Dupuis, Gélinas, Fournier (*Madawaska-Restigouche*), Gouin, Haig, Kinley, Lambert, McCutcheon, Méthot, Molson, Paterson, Pearson, Quart, Reid, Roebuck, Smith (*Kamloops*), Smith (*Queens-Shelburne*), Stambaugh and Veniot. (21)

In attendance: Mr. E. Russell Hopkins, Law Clerk and Parliamentary Counsel.

Bill S-33, "An Act to incorporate the Ottawa Terminal Railway Company", was considered clause by clause.

The following witnesses were heard:

Lt. Gen. S. F. Clark, Chairman, National Capital Commission; Mr. Julian Gazdik, Counsel, Canadian Trucking Associations Inc.; Mr. J. W. G. Macdougall, Q.C., General Solicitor, Canadian National Railways; Mr. K. D. M. Spence, Commission Counsel, Canadian Pacific Railway.

On motion of the Honourable Senator Molson it was RESOLVED to report the Bill with the following amendments:

1. *Page 2, line 22:* Strike out "or" and substitute therefor "and".
2. *Page 3, line 33:* After "hire" insert "in and about the City of Ottawa".

At 11.20 a.m. the Committee adjourned to the call of the Chairman.

Attest:

F. A. Jackson,
Clerk of the Committee.

REPORT OF THE COMMITTEE

TUESDAY, July 21st, 1964.

The Standing Committee on Transport and Communications to whom was referred the Bill S-33, intituled: "An Act to incorporate the Ottawa Terminal Railway Company", have in obedience to the order of reference of June 11th, 1964, examined the said Bill and now report the same with the following amendments:

1. *Page 2, line 22*: Strike out "or" and substitute therefor "and".
2. *Page 3, line 33*: After "hire" insert "in and about the City of Ottawa".

All which is respectfully submitted.

A. K. HUGESSEN,
Chairman.

THE SENATE

THE STANDING COMMITTEE ON TRANSPORT AND COMMUNICATIONS

EVIDENCE

OTTAWA, Tuesday, July 21, 1964.

The Standing Committee on Transport and Communications, to which was referred Bill S-33, to incorporate the Ottawa Terminal Railway Company, met this day at 10.30 a.m. to give further consideration to the bill.

Senator A. K. HUGESSEN (*Chairman*), in the Chair.

The CHAIRMAN: Honourable senators, we proceed now to consideration of the bill that was before us on June 18, namely, Bill S-33, to incorporate the Ottawa Terminal Railway Company.

We have before us as witnesses again Mr. Jacques Fortier, Counsel for the Department of Transport; Lieutenant-General Clark, Mr. D. L. McDonald and Mr. J. L. McQuarrie for the National Capital Commission; Mr. J. W. G. Macdougall, Q.C., General Solicitor, and Mr. Burns, Liaison Officer, for the Canadian National Railways; and Mr. George Pogue, Special Representative and Mr. K. D. M. Spence, Q.C., for the Canadian Pacific Railway Company.

We have also with us the counsel for the Canadian Trucking Associations, Mr. Julian Gazdik.

Two or three things arise out of our last meeting which need to be taken up before we proceed. Senators will have received the stenographic report of our proceedings last month. Senator Isnor suggested at one stage that it might be advisable to have the Board of Transport Commissioners appear before us in connection with level crossings, and so on. We decided we would take that up later. Does anybody think we need to have representations from the Board of Transport Commissioners?

Senator McCUTCHEON: No.

Senator LAMBERT: I do not think so.

The CHAIRMAN: I think we are satisfied. We have been told that a vast number of level crossings are going to be abandoned, and there will be very few left. Is it agreed that we do not call upon the Board of Transport Commissioners?

Hon. SENATORS: Agreed.

The CHAIRMAN: Then, Mr. McDonald was giving evidence with General Clark about the traffic survey that the Canadian National Railways made in 1959 concerning the hotel business and the present station. Senator Isnor asked him:

You say you did not have the figures but you did make a survey.
Can you trust your memory to give some rough figures?

And Mr. McDonald answered:

Mr. Chairman I regret that it would not be fair to honourable senators for me to give any data from my head, as the survey was done so long ago. I would have to get it and present it at a later date.

I understand that Mr. McDonald is present this morning and is ready to present that data, or perhaps General Clark will present it.

General S. F. Clark, Chairman, National Capital Commission: Yes, Mr. Chairman. This deals with a question that was asked by Senator Lambert which appears at page 15 of the proceedings of the last meeting. The question was with respect to the number of people coming to the National Capital region by various means of transportation. We decided it would be feasible to have this brought up to date, so we referred it to the firm of De Leuw, Cather and Company which is making a transportation study in the metropolitan area. The latest figures we have from them as of July 20 indicate that by road—

The CHAIRMAN: That is, July 20 of this year?

General CLARK: Yes, of this year. They are engaged in their study which they have not yet quite completed, but they have enough data to answer this question. I will answer it by giving figures of those entering the national capital area every 24 hours, and also on a percentage basis. The figures are as follows: By road, 11,000 persons; by rail, 1,100 persons; and by air, 500 persons, making a total of 12,600. I have not checked these percentages; I hope they are correct. They are 87.3 per cent by road; 8.7 per cent by rail, and 4 per cent by air. That is the latest information that we can get. We hope it is correct.

The CHAIRMAN: Thank you very much. That brings the information right up to date. We had it originally for 1959 but, of course, this is much better.

Senator FOURNIER (*Madawaska-Restigouche*): Do those figures include the number of tourists coming into the city in the summer months?

General CLARK: Mr. Chairman, this information comes from a traffic count on the various highways into the area, and also questionnaires. These are people entering for all purposes. It would include anyone who was working in Ottawa and living outside, or those coming from a summer cottage. We have not been able to break the figures down into more precise components. In other words, these are gross figures. They do show entries during a 24 hour period.

The CHAIRMAN: I now bring up the extremely kind invitation that General Clark issued to the committee at the last meeting when he said that he would be willing to arrange for the committee to go out and see the site of the new station and the area, and also have a luncheon in Gatineau park afterwards. Does the committee wish to make any arrangements in that connection? I have thanked General Clark on behalf of the committee, but does the committee wish to take up that question now, or does the committee think it has enough information with the maps already placed before it?

Senator McCUTCHEON: We can use the maps.

The CHAIRMAN: I gather the members of the committee do not feel they need to actually visit the site in spite of General Clark's kind offer. Is that the decision of the committee? I thought I should bring it up again having regard to the fact that it was left open. Is it the committee's decision to decline General Clark's kind offer with thanks?

Honourable SENATORS: Agreed.

The CHAIRMAN: There were some legal questions raised by Mr. Gazdik, the counsel for the Canadian Trucking Associations, as a result of which it was suggested that a clarification be put in section 10(g) of the bill to make sure that the trucking and transfer services which his organization is to operate would be limited to the city and district of Ottawa.

I have received a letter from the counsel of the Department of Transport dated June 26 telling me that he is agreeable to that change. Apparently the counsel for the Canadian National and the Canadian Pacific are also agreeable to it.

The amendment is to section 10(g) on page 3 of the bill which as amended would begin:

establish and operate for hire in or about the City of Ottawa a service—

Perhaps when we come to that section in our consideration of the bill some one might move an amendment to that effect.

Now, Mr. Gazdik tells me that he has still something more that he wishes to add to the evidence he gave at the last meeting with respect to section 19 of the bill. Section 19, as honourable senators recall, states:

The works and undertaking of the Company are hereby declared to be works for the general advantage of Canada.

Counsel for the C.N.R. and the C.P.R. are here and, no doubt they will have some comments to make on anything that Mr. Gazdik has to say about that section. Would you like to come forward and make your further representations, Mr. Gazdik, limiting yourself to section 19?

Mr. J. Gazdik, Counsel, Canadian Trucking Associations: Mr. Chairman, I would like to say that I am very grateful for your permission to appear before you a second time. I feel I am having a second chance. Were it not for the importance and graveness of this matter from the point of view of the Canadian Trucking Associations I would not have asked to appear before you again.

At the last meeting I made a casual remark with respect to section 19, my remark being that if section 19 remains in this bill the result will be that trucking, in view of section 10(g), will be taken from under provincial authority and placed under federal authority. I recommend, on the basis of section 18(1) of the Canadian National Railways Act, an exception be made in section 19 of this bill, and that trucking be taken out of this general declaration that the works and undertaking of the company are declared to be works for the general advantage of Canada.

I think this is all that I said. I really thought that, having said that, and having quoted the Canadian National Railways Act, I would be able to obtain the agreement of the C.N.R. and C.P.R. who are the sponsors of this bill, in part at least, to do the same thing and to use the same wisdom as the legislators used at the time they enacted the C.N.R. Act.

The CHAIRMAN: What specific suggestions have you for amendment of clause 19?

Mr. GADZIK: My specific suggestion is to include in it words to the effect that:

For the purposes of this section, the expression "works" does not include any works operated under section 10(g).

That would take out 10(g) from this over-all declaration.

At the time, I also would like to admit, I was not prepared to give you the reasons why it is so important to make this exception. I found since that this subject matter of declaration under the British North America Act has given rise to numerous studies and a great deal of interpretation. I have here three McGill University theses dealing with nothing else but the literal declaration aspect of the B.N.A. Act, Article 92, (10) (c). I will not burden you by going through all these points which are reported in these theses. Some very interesting questions are raised. I should like only to refer you to one or two instances in which the over-all declaration aspect was referred to, and what might be taken out, and how this very important and overriding power of the federal authority may be used. May I do so, Mr. Chairman?

I will do one thing, because I think this is the best. In the *Canada Temperance Federation* case, Viscount Simon made the following statement—and I think that is all I would like to bring to your attention:

The true test—

That is, of the legislature in this matter—

—must be found in the real subject matter of the legislation: if it is such that it goes beyond local or provincial concern or interests and must from its inherent nature be the concern of the Dominion as a whole then it will fall within the competence of the Dominion Parliament...

Then Mr. Macdonald wrote that as the legislation was exclusively provincial, it did in its particular context derive validly because of the necessity for effective legislation in a federal act.

Senator DUPUIS: From what document is the witness reading?

Mr. GAZDIK: That was a quotation from *Attorney General of Ontario vs Canada Temperance Federation*, (1946) A.C., 193. What is the essence of this test? The test really goes on that this wide power should be used only to the extent there is this justification. I am not here concerned regarding the railways. I am not concerned here, and I have not come here, regarding the buses or the limousine services. I am concerned only with one aspect of this matter, that is, the trucking.

If you wish, in your wisdom you will test whether it is advisable, from the point of view of the inherent nature of the concern of the dominion to take up trucking in connection with this terminal, in connection with this enterprise, from the provincial-municipal jurisdiction, and put it into the federal jurisdiction. But I submit, very respectfully, that there is no such justification regarding trucking. If there is no such justification regarding trucking, then I think the exception that I have recommended is warranted.

Senator McCUTCHEON: Will you read the section in the Canadian National Railways Act?

Mr. GAZDIK: Yes. Before I read the section, perhaps I should say that in the Canadian National Railways Act you will see that in section 27 there is a reference to trucking. Section 27 of the C.N.R. Act reads:

The National Company and every other railway company comprised in National Railways, may, in conjunction with or substitution for the rail services under their management or control, buy, sell, lease or operate motor vehicles of all kinds for the carriage of traffic.

That is the authority of the C.N.R. regarding trucking. Then, section 18(1) says:

The railway and other transportation works in Canada of the National Company and of every company mentioned or referred to in Part I... are hereby declared to be works for the general advantage of Canada.

This is similar to the expression we have here. Then it goes on in subsection (3) to read as follows:

For the purpose of this section, the expression "railway or other transportation works" does not include any works operated under the authority of section 27.

I have already quoted section 27. Therefore, it is a very clear exception that is made. I have explained the reasons and there are many other reasons with which I do not want to burden you. There are great difficulties. There is the difficulty whether or not an undertaking itself can be declared to be in "the general advantage of Canada," that it must not be a "work".

If you take the new bill, S-33, before you, it talks only about an "undertaking". Clause 9 has the marginal note "Undertaking". That being so, the question has arisen whether an undertaking can be declared to be "to the general advantage of Canada" under the paragraph of the B.N.A. Act, which refers only to "works". It does not refer to "undertakings". These are matters which are very complex and difficult to explain in a brief period of time. I may say that if this were to go to the House of Commons with this very broad declaration under clause 19, there would be quite an extensive hearing there because all the interested parties would appear and the matter would be dragged out. Therefore, I would say that, for the expeditious handling of this bill, it would be advisable—and this is the recommendation of the Canadian Trucking Associations—to make the exception as I recommend it.

The CHAIRMAN: Are there any questions to Mr. Gazdik? Perhaps we should ask counsel for the railway company whether he has anything to say in regard to Mr. Gazdik's remarks.

Mr. MACDOUGALL: Yes, Mr. Chairman, if I may.

Senator DUPUIS: May I suggest that a smaller map be made for each member of this committee?

The CHAIRMAN: Each member was supplied with a map here at the last meeting of the committee. Apparently there are no further maps available.

J. W. G. Macdougall, Q.C., General Solicitor, Canadian National Railways: Mr. Chairman and honourable senators, I would like to speak on behalf of the Canadian National Railway Company in answer to Mr. Gazdik's recommendation to you that section 19 of this bill should be amended to eliminate therefrom any reference to the powers given in section 10(g) of the bill to perform transport services in and about the City of Ottawa.

The Canadian National does not agree with this proposal, and objects to it strongly.

I also suggest to honourable senators that Mr. Gazdik has misunderstood, if I may say so, the intent of the power that the railway companies are asking for in this bill. It should be made very clear at the outset that we are not asking for the company to have any general powers to operate general highway services in and about the City of Ottawa. This company would have no power to go to a man's home in the City of Ottawa and pick up packages or persons and take them to another point in the City of Ottawa. This is not what we are asking for. We are asking solely for what is an inherent right the railway companies have, and that is to give service to its customers at the terminal end of its rail operations, transporting to and from the terminal, passengers and their baggage. We are not asking for any general transport powers in the City of Ottawa. We are asking only for the power to give transfer services to patrons of the railway.

Secondly, we are not asking for any powers to operate trucking services in conjunction with or in substitution for rail services such as Mr. Gazdik read to you in the Canadian National Railways Act. Those powers enable them to offer over the road railway services which may be 10, 50 or 100 miles, as long as those services are in substitution.

Under the powers of the Canadian National Railways Act, which he spoke of, we can substitute a highway service for rail service. Also with that power we can put on a highway service in conjunction with the rail service. That is not what we are asking for here either. So his suggestion that this company should be limited in its powers at its inception to something comparable to the Canadian National Railways is a misconception of the powers that we are asking Parliament to give to this terminal company.

Senator McCUTCHEON: Do you mind if I ask a question as we go along? Do the terms of the Ottawa Terminal Act in any way correspond with those of the Toronto Terminal Railway Act?

Mr. MACDOUGALL: I am glad you raised that point, Mr. Chairman.

In 1906 the Toronto Terminal Railway Company was incorporated by Act of Parliament, and in that legislation you will find that company declared to be "works for the general advantage of Canada." It also has transfer service powers in the terminal area of exactly the same nature as those contained in the Ottawa terminal bill. In fact, the Ottawa terminal bill was drafted in the terms of the Toronto terminal bill. What is being asked for here is not some additional power that this company should have over and above what similar companies have, such as the Toronto Terminal Railway, or over and above the powers which ordinarily railway companies have. We are simply asking for the ordinary powers Parliament has given to railway companies from the very inception of the exercise of the power to incorporate.

To follow Mr. Gazdik's proposal, he is asking you to derogate in respect of this new company from the normal powers given to a railway company, because—and this question has come before the courts also—it is a fact and a matter of law that railway companies have the inherent power within their normal power to perform ancillary services, including delivering to and picking up passengers and their baggage at terminal areas.

Senator McCUTCHEON: In the operations which you perform in the metropolitan area in Toronto under the Toronto Terminal Railway Act, do you comply with provincial and municipal licensing requirements?

Mr. MACDOUGALL: I will answer that, senator, by saying that at the present time we do not actually perform any services in the Toronto terminal area under the powers of the Toronto Terminal Railway Act. We have a local trucker who does our pick-up and delivery work in the Toronto area, and he complies with the local ordinances and laws. We have the power; and the point of having the power is that if the railway company in the exercise of its functions of giving transportation to persons and goods, finds that it can make the best arrangement with a local operator, it may do so. However, should it find it cannot do this, and for some reason arrangements with local operators cannot be made on a reasonable basis, the railway company should have the power, and in most cases does have the ancillary power to perform the services itself so that the passengers and goods going by railway can have these ancillary services available.

Senator McCUTCHEON: One more question. If it is indicated that services under contract by independent operators are available to provide these services in the Toronto area, and supposing you started to exercise the power under section 10(g), what is your position as to whether you will be required to comply with provincial licensing regulations for trucks or with municipal regulations as to size of trucks, the areas in which they may operate, and so on?

Mr. MACDOUGALL: Well, sir, the normal powers which would be given to a railway company are the powers under this bill to enable us to put trucks and other types of vehicles such as cars and buses, and so on, on the highway to give just this type of transfer service only.

Senator McCUTCHEON: Without provincial licence?

Mr. MACDOUGALL: There would be no requirement for them to be provincially licensed. I may say that the present provincial laws of Ontario provide that where this type of service is given in a metropolitan area, no licensing requirement is imposed within three miles of the metropolitan area.

Senator McCUTCHEON: But the vehicles carry the normal licences?

Mr. MACDOUGALL: Yes, they carry the normal licences. The practice of the Canadian National Railways all across Canada is to comply with the local provincial jurisdictions. We obtain licensing and obey local weight restrictions and ordinances, but there is not a particular requirement under this act to go and obtain a franchise to operate this service from the terminal in Ottawa to outlying points.

Senator McCUTCHEON: But in other aspects you comply with provincial ordinances?

Mr. MACDOUGALL: Yes, we would comply with them, of course.

I might just refer the committee, for the purpose of the record, to two cases in support of the proposition I pointed out to you a moment ago, that railway companies do have the inherent ancillary powers to operate local pick-up and delivery services, as decided by the court.

The first case is *Grand Trunk Railway vs. James*, (1916), 29 Dominion Law Reports, 352, a decision of the Supreme Court of Alberta. Another is the *Attorney General vs. Manchester Corporation*, (1906) 1 Chancery, 643. I think it is very important to realize that this basic position of the railway company does include this type of general power in the public interest.

May I read a short portion of the report of *Grand Trunk Railway Company vs. James*, at page 353, where His Lordship said:

Besides, it must surely be evident to anyone that it is, in fact, a great convenience to the public travelling on a railway line to find that the company which has carried them and their baggage to its stations is ready to furnish them with facilities for getting that baggage quickly and safely to their places of abode near those stations. It is just at the moment when the passenger alights, often in a strange place, that he needs the attention of the railway company most. I think the carriage of baggage to and from its own stations is clearly a power fairly incidental to the statutory powers of the company.

The question there was whether or not the railway company, without anything more, had the power to perform this type of terminal service; and it was held that this was an inherent power. In this statute, Bill S-33, I think we are setting out a clear declaration of the type of power which this terminal company will exercise, and which is similar to that now exercised or held by the Toronto Terminal Railway Company—to perform this very specific type of terminal service to and from the terminal. I submit this will have no effect upon the Canadian Trucking Associations or its members. It will not take anything away from their rights to having general pick-up and delivery or transfer services, which they may be franchised for in the City of Ottawa. Since the traffic is to and from the railway company, even if we were required to go before some local board to obtain transfer powers, I submit to you that none of the local truckers would be in a position to complain. We would not be asking for the right to handle traffic they would have any ability to handle, because it would be railway traffic given to us to handle and deliver. Under our contracts we have a statutory and contractual right to deliver this traffic, and we would have to take it to the point of delivery and deliver it. A trucking company would not be able to say, "I want to take the traffic from the railway company and deliver it."

Senator McCUTCHEON: You could contract with a trucking company to do so?

Mr. MACDOUGALL: Yes, we could contract with it to do so, quite right, but this is not the type of traffic it could insist we should not be franchised for and that it should be franchised to take it, because it would be our traffic.

Unless there are some other questions, Mr. Chairman and honourable senators, that is all I wish to say.

Senator McCUTCHEON: Mr. Chairman, I would like to refer Mr. Macdougall to section 10(e). Do you comply with the local health regulations when you operate restaurants?

Mr. MACDOUGALL: Yes, we do.

Senator McCUTCHEON: Do you feel you have to? I am just interested in how far this goes.

Mr. MACDOUGALL: I do not think we would worry about the legality of this, because we would want to do it and we would insist that our people comply with the regulations for good housekeeping purposes, if nothing else.

Senator ROEBUCK: But you are required to do so by law, are you not?

Mr. MACDOUGALL: Yes.

Senator ROEBUCK: It is not up to them whether they comply with sanitary regulations and so on, governing a restaurant.

Mr. MACDOUGALL: There are matters which lie within provincial jurisdiction, and we are required to comply with them and we do.

The CHAIRMAN: Are there any further questions of Mr. Macdougall?

Mr. Spence, do you have anything to add to what Mr. Macdougall has said?

Mr. SPENCE: Yes, I have a few words, Mr. Chairman.

The CHAIRMAN: This is Mr. Spence, commission counsel, Canadian Pacific Railway.

Mr. K. D. M. Spence, Commission Counsel, Canadian Pacific Railway: First, Mr. Chairman, what Mr. Macdougall has said, as far as it pertains to Canadian Pacific and our interest in this company, is entirely in accordance with what I have in mind to say. I shall try not to repeat what has already been said, although perhaps I may point out that we are asking no more for the Ottawa Terminal Railway Company than we are doing ourselves or that we have power to do, and that is to provide pick-up and delivery service, baggage service, and passenger service. That is a service we are now giving either by ourselves or through our agents at many points in Canada. It is true that we sometimes engage contractors to do this, but we treat them as agents for the railway company in performing this service. The pick-up and delivery service has become a very general service given by the railway company, not only in Canada but in the United States and, I presume, elsewhere.

Section 315 of the Railway Act puts the following duties on the railway company:

(1) The company shall, according to its powers,

- (a) furnish, at the place of starting, and at the junction of the railway with other railways, and at all stopping places established for such purpose, adequate and suitable accommodation for the receiving and unloading of all traffic offered for carriage upon the railway;

—and I do not need to itemize all these subparagraphs, but I come down to subparagraph (e):

- (e) furnish such other service incidental to transportation as is customary or usual in connection with the business of a railway company, as may be ordered by the Board.

It is my suggestion the railway company now, in furnishing a service that is incidental to railway business, is really required to provide pick-up and delivery service in the large centres. That is all that we are asking for in connection with the Ottawa Terminal Railway Company.

Parliament has already in other ways authorized and even urged railway companies—the Canadian National and the Canadian Pacific—to perform certain highway services, and I refer to the Canadian National-Canadian Pacific Act of 1932-33. In section 17 of that act, subsection 1, the following appears:

The National Company, for and on behalf of itself and any or all other of the companies and other elements of which National Railways as defined by this Act is composed, and the Pacific Company, for and on behalf of itself and any or all other of the companies and other elements, of which Pacific Railways as defined by this Act is composed, are, for the purposes of effecting economies and providing for more remunerative operation, directed to attempt forthwith to agree and continuously to endeavour to agree, and they respectively are, for and on behalf as aforesaid, authorized to agree, upon such co-operative measures, plans and arrangements as are fair and reasonable and best adapted (with due regard to equitable distribution of burden and advantage as between them) to effect such purposes;

—and so on.

In subsection (2) it says:

Without restricting the generality of the foregoing, any such measures, plans or arrangements may include and be effected by means of

—(a), (b), (c) and (d); and (d) reads:

(d) joint or individual highway services, or highway and railway services combined, in any form.

I should also have mentioned (a) which says:

. . . by means of

(a) new companies controlled by stock ownership, equitably apportioned between the companies;

Here we have Parliament urging us to do precisely the thing we are proposing to do here—that is, to organize a joint company and, among other things, engage in combined operations including highway services. I suggest that to deny this new company even the very modest vehicle services for which it is asking would be inconsistent.

Now, as I said before, the two railways themselves have the power to provide pick-up and delivery services and these other services to their customers. That power is exercised under federal jurisdiction for the general advantage of Canada, and to take that away from our subsidiary company, to say that although the two railways themselves may do this as part of their undertaking for the general advantage of Canada their subsidiary company, which is really organized to do the same thing for them, should not have the same powers would be taking something away that we already have, and I submit it would be to the detriment of the railway companies and to the disadvantage of the public.

I do submit that section 10(g), limited to the Ottawa area, should stand, and that section 19 should not be altered. Thank you, Mr. Chairman.

The CHAIRMAN: Thank you, Mr. Spence. Are there any questions to Mr. Spence?

General Clark, have your commission any views on this particular point you would like to express?

General CLARK: Mr. Chairman, I think it is primarily a railway matter, but I would like to express the view the Government did urge the railways to abandon a large number of miles of tracks, and to operate a terminal railroad company which would make it possible to remove these lines, and redevelop the part of the national capital region. Under the National Capital Act the objects and purposes of the commission are to prepare plans for and to assist in the development, conservation and improvement of the national capital region, in order that the nature and character of the seat of Government of Canada may be in accordance with its national significance.

Now the Government did urge the railways to abandon these lines in order that we might improve or in order that its agency, the National Capital Commission might prepare plans to improve the national capital region. Therefore I think as a general statement the commission would not wish the railways in forming a terminal company, to have a derogation from their power so that the railway operations, especially as they affect the public, would be less efficient than they were before. Therefore while I believe it would be quite wrong for the commission to express a legal opinion on this matter, on the general question I think I can say for the commission that we would hope that this bill would be approved in such a way that the railways would be able to give as efficient operations as they gave before, and that the instructions of government or the pressure the Government put on them to move would not result in some falling-off in efficiency.

The CHAIRMAN: Thank you. Any questions? Are there any further witnesses who desire to be heard? If not, are we ready to proceed to consider this bill section by section?

Some Hon. SENATORS: Agreed.

The CHAIRMAN: Very well. Section 1, short title. Shall section 1 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 2, incorporation. Shall section 2 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 3, provisional directors. Shall section 3 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 4, capital stock. Shall section 4 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 5, head office. Shall section 5 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 6, general meetings and annual meetings of shareholders. Shall section 6 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Now I have a question with respect to section 7, which says "the number of directors shall be not less than six nor more than ten—". I understand each of the two railway companies is to subscribe half the capital stock of this company.

Mr. MACDOUGALL: That is correct.

The CHAIRMAN: I suppose it is your intention to have an equal number of directors from each company on the board. I wonder if you have expressed this clearly enough in section 7. Perhaps it would be advisable to say that the directors shall be an even number, and shall consist of not more than ten. You probably want to have an even number so that you can have the same number from each company.

Mr. MACDOUGALL: That would be a matter of policy as they went along. It is possible they could decide to have an uneven number for some reason. I don't know that I have heard the companies express the opinion they must have an equal number from each company. If that section were written in such a way it might give rise to difficulties. It could be something different.

The CHAIRMAN: Both companies are satisfied with it as it stands?

Mr. MACDOUGALL: Yes.

The CHAIRMAN: Shall section 7 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Shall section 8 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 9, the undertaking.

The Company may acquire, construct and operate a railway and related facilities—

Shall section 9 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 10. We have no comments on subsection (a). Shall subsection (a) carry? Shall subsection (b) carry? Shall subsection (c) carry? Shall subsection (d) carry? Shall subsection (e) carry? Shall subsection (f) carry?

Hon. SENATORS: Carried.

The CHAIRMAN: When we come to subsection (g) we have this proposed amendment which is, I think, agreeable to all parties.

(g) establish and operate for hire—

And after the word "hire" insert the words "in or about the City of Ottawa". Will some honourable senator move that amendment?

Senator HAIG: I so move.

The CHAIRMAN: It is moved by Senator Haig.

Hon. SENATORS: Carried.

Mr. SPENCE: May I suggest it might be better to put in "in and about—"

The CHAIRMAN: I would think so.

Mr. HOPKINS: The language of section 9 says "in or about". To be consistent with that should it not be "in or about"?

The CHAIRMAN: In subclause 1 of clause 9 it says:

The Company may acquire, construct and operate a railway and related facilities in or about the City of Ottawa for the purpose of providing a transportation terminal.

Should we not change that one also? Would it not be better to substitute there "and" for "or" in subsection 1 of section 9?

Mr. MACDOUGALL: Perhaps they should be the same, and perhaps it should be "and" in both.

The CHAIRMAN: Shall we go back to subsection 1 of section 9 and substitute "and" for "or"? Will some honourable senator so move?

Senator McCUTCHEON: I so move.

Hon. SENATORS: Carried.

The CHAIRMAN: Then we come to section 10, subsection (g)—
establish and operate for hire in and about—

Shall the section as amended carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 11. Shall this section carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Shall section 12 carry? Shall section 13 carry? Shall section 14 carry? Shall section 15 carry? Shall section 16 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 17, time for construction. On that point, "Time for construction," I wonder whether you were not perhaps a little optimistic when you said it would only take six months after the closing of the old terminal and the opening of the new to bring these new road facilities from the new station to Ottawa into operation?

General CLARK: Mr. Chairman, I was expressing an optimistic view, and I hope it will not be taken as an engineering opinion. It was just a hope.

The CHAIRMAN: It was just a hope. Shall section 17 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 18 and section 19. Shall these sections carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Shall the preamble carry?

Hon. SENATORS: Carried.

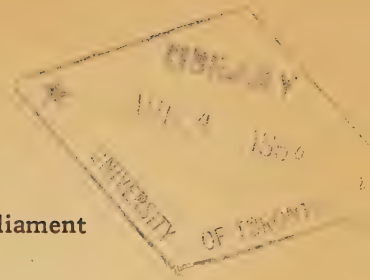
The CHAIRMAN: Shall the title carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Shall I report the bill as amended?

Hon. SENATORS: Agreed.

The committee adjourned.



Second Session—Twenty-sixth Parliament
1964

THE SENATE OF CANADA
PROCEEDINGS
OF THE
STANDING COMMITTEE ON
TRANSPORT AND COMMUNICATIONS

To whom was referred the

Bill S-40, An Act to repeal certain Acts of the Province of Newfoundland
respecting Harbours and Pilotage

The Honourable A. K. HUGESSEN, *Chairman.*

TUESDAY, JULY 21, 1964.

WITNESSES:

Mr. Jacques Fortier, Counsel, Department of Transport; Capt. D. R. Jones,
Pilotage Division, Department of Transport.

REPORT OF THE COMMITTEE

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1964

THE STANDING COMMITTEE
on
TRANSPORT AND COMMUNICATIONS

The Honourable
ADRIAN K. HUGESSEN,
Chairman

The Honourable Senators

Baird,	Macdonald (<i>Brantford</i>),
Beaubien (<i>Provencher</i>),	McCutcheon,
Bouffard,	McGrand,
Bradley,	McKeen,
Buchanan,	McLean,
Connolly (<i>Halifax North</i>),	Méthot,
Croll,	Molson,
Dessureault,	Monette,
Dupuis,	Paterson,
Farris,	Pearson,
Gélinas,	Phillips,
Fournier (<i>Madawaska-Restigouche</i>),	Power,
Gershaw,	Quart,
Gouin,	Reid,
Haig,	Robertson (<i>Shelburne</i>),
Hayden,	Roebuck,
Hollett,	Smith (<i>Kamloops</i>),
Horner,	Smith (<i>Queens-Shelburne</i>),
Hugessen,	Stambaugh,
Isnor,	Taylor (<i>Westmorland</i>),
Jodoin,	Thorvaldson,
Kinley,	Vien,
Lambert,	Veniot,
Lang,	Welch,
Lefrançois,	Woodrow—(50).

Ex Officio members

Brooks,
Connolly (*Ottawa West*).

(Quorum 9)

ORDER OF REFERENCE

Extract from the Minutes of the Proceedings of the Senate, Monday, July 20th, 1964.

"Pursuant to the Order of the Day, the Honourable Senator Cook moved, seconded by the Honourable Senator Smith (*Kamloops*), that the bill S-40, intituled: "An Act to repeal certain Acts of the Province of Newfoundland respecting Harbours and Pilotage", be read the second time.

After debate, and—

The question being put on the motion, it was—

Resolved in the affirmative.

The Bill was then read the second time.

The Honourable Senator Cook moved, seconded by the Honourable Senator Smith (*Kamloops*), that the Bill be referred to the Standing Committee on Transport and Communications.

After debate, and—

The question being put on the motion, it was—

Resolved in the affirmative."

J. F. MACNEILL,
Clerk of the Senate.

MINUTES OF PROCEEDINGS

TUESDAY, July 21, 1964.

Pursuant to adjournment and notice the Standing Committee on Transport and Communications met this day at 10.00 a.m.

Present: The Honourable Senators: Hugessen (*Chairman*), Buchanan, Dupuis, Gelinas, Fournier (*Madawaska-Restigouche*), Gouin, Haig, Kinley, Lambert, McCutcheon, Methot, Molson, Paterson, Pearson, Quart, Reid, Roebuck, Smith (*Kamloops*), Smith (*Queens-Shelburne*), Stambaugh and Veniot. (21)

In attendance: Mr. E. Russell Hopkins, Law Clerk and Parliamentary Counsel.

On Motion of the Honourable Senator Haig it was RESOLVED to report recommending that authority be granted for the printing of 800 copies in English and 300 copies in French of the proceedings of the Committee on Bill S-40.

Bill S-40, "An Act to repeal certain Acts of the Province of Newfoundland respecting Harbours and Pilotage", was read and considered.

The following witnesses were heard:

Mr. Jacques Fortier, Counsel, Department of Transport.

Capt. D. R. Jones, Pilotage Division, Department of Transport.

On Motion of the Honourable Senator McCutcheon it was RESOLVED to report the Bill without amendment.

At 10.25 a.m. the Committee concluded its deliberation of the said Bill.

Attest.

F. A. Jackson,
Clerk of the Committee.

REPORT OF THE COMMITTEE

TUESDAY, July 21, 1964.

The Standing Committee on Transport and Communications to whom was referred the Bill S-40, intituled: "An Act to repeal certain Acts of the Province of Newfoundland respecting Harbours and Pilotage", have in obedience to the order of reference of July 20th, 1964, examined the said Bill and now report the same without any amendment.

All which is respectfully submitted.

A. K. HUGESSEN,
Chairman.

THE SENATE

THE STANDING COMMITTEE ON TRANSPORT AND COMMUNICATIONS

EVIDENCE

OTTAWA, Tuesday, July 21, 1964.

The Standing Committee on Transport and Communications to which was referred Bill S-40, an Act to repeal certain Acts of the Province of Newfoundland respecting Harbours and Pilotage, met this day at 10 a.m.

Senator A. K. HUGESSEN (*Chairman*) in the Chair.

The committee agreed that a verbatim report be made of the committee's proceedings on the bill.

The committee agreed to report recommending authority be granted for the printing of 800 copies in English and 300 copies in French of the committee's proceedings on the bill.

The CHAIRMAN: Honourable senators, will the committee come to order. We have before us for further consideration Bill S-33, to incorporate the Ottawa Terminal Railway Company.

Yesterday evening we had submitted to us Bill S-40, an Act to repeal certain Acts of the Province of Newfoundland respecting Harbours and Pilotage. I suggest that perhaps this latter bill is a very simple one, the only question being a legal one raised in connection with it. Perhaps we could dispose of it before we proceed with Bill S-33, if that meets with the approval of the committee.

Honourable SENATORS: Agreed.

Senator REID: Before we proceed, Mr. Chairman, I wanted to ask one question for the record. I spoke to the senators about it this morning. What power has the Government of Canada got to rescind the statutes as contained in the bill?

The CHAIRMAN: That is a legal question, Senator Reid, and the two witnesses who are ready to appear before us in connection with Bill S-40 are two lawyers, Mr. Jacques Fortier, Counsel of the Department of Transport, and Mr. H. A. McIntosh of the Department of Justice. I imagine they will deal with the particular question that has been raised.

Apparently Mr. McIntosh is not here but perhaps Mr. Fortier will be able to give the explanation.

Mr. Jacques Fortier, Counsel, Department of Transport: Mr. Chairman and honourable senators, the reason the reference is made in this bill to the Revised Statutes of Newfoundland, 1952, is this. When a statute is revised, what takes place is a repeal and a re-enactment of the existing statute. When the statutes listed in the bill were under federal jurisdiction pursuant to the union of Newfoundland and Canada, it did not appear that the province had any power to repeal these two revised statutes of 1952. That is the reason we list the statutes of the 1952 revision in the bill.

I would also point out that the same procedure was followed in the case of two previous pieces of federal legislation. One was passed last year, which was chapter 38 of the Statutes of 1963, an Act to repeal the Newfoundland Savings Bank Act, and it referred to both the pre-Confederation statute and the statute as included in the 1952 edition. The same procedure was also followed in 1959 by chapter 49, which was an act passed by Parliament to repeal certain fisheries of Newfoundland.

The CHAIRMAN: Are there any questions to Mr. Fortier?

Senator STAMBAUGH: Have these statutes been repealed by the province?

Mr. FORTIER: No action has been taken by the province after 1949, except to re-enact these statutes in the 1952 Revised Statutes of Newfoundland. But under the Terms of Union of Newfoundland with Canada the British North America Act was declared to be applicable to Newfoundland, so that all the statutes which continued in force after union were subject to being revised or repealed by either the provincial government or the federal Government according to the terms of the British North America Act. All these statutes listed in the bill come under federal jurisdiction pursuant to the British North America Act as being in respect of the subject matter of navigation and shipping.

Senator KINLEY: Mr. Chairman, this bill seeks to repeal certain statutes of Newfoundland that are not directly contained in the terms of Union. This abolishes a service that is now in existence. How do you intend to continue that service—under the British North America Act, and automatically it comes under Canada?

Mr. FORTIER: They continued in force after 1949. Do I understand your question to be as to how they continued in force after 1949?

Senator KINLEY: No, this provision about the pilots is not included in the detail of the terms of union.

Mr. FORTIER: No, they were not included, but under section 3 of the Terms of Union it is mentioned that the British North America Act shall apply to Newfoundland, and under that act certain subject matters come under federal jurisdiction while others come under provincial jurisdiction. The item on navigation and shipping comes under exclusive federal jurisdiction. The statutes about pilotage as well as the other statutes in the bill in respect of public harbours are in relation to navigation and shipping and, therefore, after 1949 they come under exclusive federal jurisdiction.

Senator KINLEY: How are you going to carry on your pilotage service? How are you going to carry on that service now?

Mr. FORTIER: After the repeal has taken place under authority of this act it is proposed to provide for pilotage in Newfoundland in accordance with the provisions of the Canada Shipping Act.

Senator KINLEY: Would not that be a money bill?

Mr. FORTIER: I do not think it would be, senator.

Senator KINLEY: I do not know, but it would be an expense.

Mr. FORTIER: The provisions of the Canada Shipping Act provide for the constitution by the Governor in Council of pilotage authorities in various pilotage districts also established by the Governor in Council. These pilotage authorities are constituted of three members who may be local persons or designated by the Minister of Transport, but there is no public money involved under the provisions of the Canada Shipping Act in respect of pilotage.

Senator HAIG: Will the orders, rules and regulations made under these present provincial statutes be continued under the Canada Shipping Act?

Mr. FORTIER: They will continue after repeal until action is taken either to amend or repeal these regulations. The action for the repeal of these existing regulations would now have to be taken by the Governor in Council.

Senator HAIG: It is federal?

Mr. FORTIER: Yes, federally, by the Governor in Council.

Senator KINLEY: Term 18 of the Terms of Union says:

Subject to these Terms, all laws in force in Newfoundland at or immediately prior to the date of Union shall continue therein as if the Union had not been made, subject nevertheless to be repealed, abolished, or altered by the Parliament of Canada or by the Legislature of the Province of Newfoundland according to the authority of the Parliament or of the Legislature under the British North America Acts, 1867 to 1946, and all orders, rules, and regulations made under any such laws shall likewise continue, subject to be revoked or amended by the body or person that made such orders, rules, or regulations or the body or person that has power to make such orders, rules, or regulations after the date of Union, according to their respective authority under the British North America Acts, 1867 to 1946.

This repeals something; it does not create anything. It destroys something: it repeals your pilotage laws. You have to put something in its place.

Mr. FORTIER: Yes, senator.

Senator KINLEY: And that is going to cost money to the federal Treasury.

Mr. FORTIER: As I just pointed out, there is no provision for the payment of public funds under the provisions of the Canada Shipping Act which provide for the constitution of these pilotage authorities. They are self-administered and their expenses are taken from the pilotage dues which are collected.

Senator KINLEY: Were these either directly or without thinking left out of the Terms of Union? There was a special provision for the fisheries, and you had to carry that on for five years. There is no mention in this about pilotage. Therefore, I think, and I am advised, that this would apply. I do not see anything to prevent it except that it might be a money bill.

Mr. FORTIER: Even if there were any public money involved in the bill as a result of the repeal of these statutes, the repeal itself under the bill does not automatically provide for the creation of pilotage districts in Newfoundland under the Shipping Act. This action has to be taken by the Governor in Council under authority of the Shipping Act.

The CHAIRMAN: Mr. Fortier, what is the actual position at the moment with respect to these ports in Newfoundland—for instance, St. John's and Port aux Basques? What is the administrative authority and under what legislative sanction are they operating—under the federal Shipping Act?

Mr. FORTIER: They are now operating under the Newfoundland statutes which are mentioned in sections 1 and 3 of the bill.

The CHAIRMAN: I thought Senator Cook told us the federal Shipping Act had been brought into effect.

Mr. FORTIER: Yes, Mr. Chairman.

Senator COOK: That is right, but it provides for all except Part VI which must be proclaimed. Part VI of the Shipping Act is not in force in Newfoundland, is that right?

Mr. FORTIER: Mr. Chairman, in 1949 the Shipping Act was proclaimed into force in Newfoundland, except Part VI in respect of pilotage. In 1953 there was an amendment made to the Shipping Act which provides that Part VI of the act in respect of pilotage will come into force in Newfoundland upon

proclamation. There has been no proclamation, but it is proposed, after these pilotage statutes of Newfoundland are repealed, to proclaim Part VI of the act into force in Newfoundland.

The CHAIRMAN: So it will be a momentary matter: you will cancel these acts and proclaim the pilotage section of the Shipping Act?

Mr. FORTIER: Yes.

The CHAIRMAN: I think that is sufficiently clear.

Senator KINLEY: It looks as though the province of Newfoundland will have to proclaim an act. They have to take action, it seems, or the dominion can take action.

The CHAIRMAN: The dominion can, seeing it is now a matter within federal jurisdiction.

Senator KINLEY: They come under the Shipping Act, but what are you going to do in the meantime, until you get the proper control of it after you repeal this act?

Mr. FORTIER: The various pilotage boards in some of the harbours of Newfoundland after 1949 came under the jurisdiction of the Department of Transport, but they have been more or less inactive. Some of the commissioners resigned and others died, and no action has yet been taken to replace them with a view that when the shipping act, the pilotage provisions of the shipping act were proclaimed in force in Newfoundland, these various commissions would be reconstituted under the shipping act.

Senator KINLEY: Who gets pilotage fees now? To what treasury do they go?

Mr. FORTIER: I cannot answer that, but I have Captain Jones with me who may be able to answer.

Senator KINLEY: You would not want to create a condition where nobody is in authority. St. John's harbour is quite a tricky one.

The CHAIRMAN: Captain Jones, would you care to answer that question?

Captain D. R. Jones, Nautical and Pilotage Division, Department of Transport: They are received by the local pilotage authority. The revenue is collected by the local pilotage authority, disbursed to meet their expenses and pay the pilots.

Senator KINLEY: Do the pilots now come under a wage scale or salary scale?

Captain JONES: They are not on salary; they are on a scale of fees. It is not intended at this time to make a change. There is nothing of that sort contemplated at the present time.

Senator KINLEY: You have a good pilotage service there?

Captain JONES: Yes, these places are rather small. There are two pilots in most of them, one in another, and in St. John's there are nine.

Senator REID: When this bill passes under what condition would the pilots act?

Captain JONES: In the same manner they have always acted. They receive licences from the local authority. These licences will be renewed and they will function in the way they are now functioning.

Senator KINLEY: How big must a ship be to take a pilot into St. John's?

Captain JONES: The pilotage dues are levied on tariffs. They are not levied on size.

Senator KINLEY: Must every ship take a pilot?

Captain JONES: No, the exemption is usually granted on the nature of the trade in which the ship is engaged, and also on the nationality.

Senator KINLEY: Fishing vessels do not take a pilot?

Captain JONES: Fishing vessels in St. John's do not necessarily take a pilot, but they have to pay pilotage dues.

Senator KINLEY: And foreign ships, Portuguese, French and Spanish are all liable for pilotage fees?

Captain JONES: Yes.

The CHAIRMAN: Any other questions, gentlemen?

Senator ROEBUCK: I should like an explanation of a point I raised in the house. I was a little late in coming in, perhaps five minutes, and it may have been discussed in my absence. In the house we were told by Senator Cook that the second of these bills, the Outport Pilots and Pilotage Act, now appearing in the Revised Statutes of Newfoundland, 1952, was passed after Confederation of Newfoundland, and therefore was beyond the jurisdiction of Newfoundland, in which case it has no force and effect. Now we are proposing to repeal an act which does not exist.

Senator McCUTCHEON: The act exists.

Senator ROEBUCK: It was passed without any authority. It was passed when the authority in connection with these matters was in the Dominion Government, and not within the jurisdiction of Newfoundland. I asked the question because I would like this witness to tell us why we are doing something which I think is very unusual. I do not remember in my experience the Dominion authority ever repealing an act of a provincial government, and I certainly have never known us to repeal an act which does not exist or which is without validity and which could not be enforced in the courts of Newfoundland, and which would be declared unconstitutional. Why we should now undertake to repeal it, I cannot understand. As I say, I have never seen anything like this, and therefore I would like this witness to tell us what he thinks about it.

Mr. FORTIER: Well, Senator, as I pointed out, the reason why we repeal these statutes which were revised by the Province of Newfoundland in 1952 is that the subject matter of these now comes under federal jurisdiction under the Terms of Union of 1949 of Newfoundland with Canada. Under the terms of that union the British North America Act was declared to apply to Newfoundland.

Senator ROEBUCK: So that gives us jurisdiction over previous acts in this category of the Newfoundland Legislature. That made them Dominion matters. But that does not apply to the second of these acts, when it was re-enacted by Newfoundland in the revised statutes. At that time the act you are referring to did not apply. Now I am only addressing myself to the second of these two acts mentioned in clause No. 1. We are perfectly entitled to act with regard to the first of these acts. That was placed under our jurisdiction by the agreement, but the second act was passed after the agreement.

Mr. FORTIER: The explanation is this, that in regard to the second act, the one passed in 1952, and included in the revised statutes, the revision amounted to a repeal and re-enactment of the existing statute.

Senator ROEBUCK: Something which was beyond the jurisdiction of the Province of Newfoundland.

Mr. FORTIER: That is the view we take because of the provisions of the British North America Act. The subject matter came under the federal jurisdiction, and that is why in dealing with pre-Confederation statutes we also have to deal with post-Confederation statutes. The same thing was done with regard

to an act of the federal Government, chapter 38, in 1963, which was an act to repeal the Newfoundland Savings Bank Act. The same procedure was followed in that repeal. We mention both the pre-union statute and the post-union statutes. It was also done in connection with another statute passed by the federal Government in 1959, chapter 49, an act to repeal certain Newfoundland Fishing Acts.

Senator ROEBUCK: So there is some precedent.

The CHAIRMAN: I suppose, Senator Roebuck, when the Newfoundland authorities came to revise their existing statutes in 1952 they must have found a number of existing statutes which had come under the federal jurisdiction at that time, but which had not been repealed by the federal authority. It is difficult to see how they could have done other than what they did. The only other thing they could have done would be to go on with the statutes, putting them into revised statutes, and waiting until the federal authority repealed them. It is an academic point.

Senator ROEBUCK: It is academic, and we may be right in dealing with them. However some people may be acting under certain acts that are no longer in force, and while they may not be in force any more, and may no longer apply, this is nevertheless quite an important point I am raising.

The CHAIRMAN: Oh, yes.

Senator ROEBUCK: And I do not know that we should establish a precedent of repealing provincial acts.

The CHAIRMAN: Apparently there are these two precedents already.

Senator ROEBUCK: I suppose it will do no harm.

The CHAIRMAN: Are there any further questions from the committee? Does the committee wish to pass on the bill?

Senator KINLEY: It looks all right. It is not a money bill. It is not going to cause expenditures.

Senator SMITH (*Queens-Shelburne*): Mr. Chairman, I move we report the bill without amendment.

The CHAIRMAN: It is moved that we report the bill without amendment. All in favour?

Hon. SENATORS: Agreed.

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